



**NEW SOUTH WALES  
CASINO CONTROL AUTHORITY**

**REPORT OF INVESTIGATION PURSUANT  
TO SECTION 31 OF THE  
NEW SOUTH WALES CASINO CONTROL ACT  
1992**

**SYDNEY, DECEMBER 1997**



**NEW SOUTH WALES**

**REPORT OF INQUIRY BY  
MR P D McCLELLAN QC PURSUANT TO  
SECTION 143 OF THE CASINO CONTROL ACT  
1992**

**SYDNEY, DECEMBER 1997**

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## **GLOSSARY OF TERMS**

<b>Act</b>	<b>NSW Casino Control Act, 1992</b>
<b>Authority</b>	<b>New South Wales Casino Control Authority constituted under the Act</b>
<b>CCBF</b>	<b>Casino Community Benefit Fund</b>
<b>DCL</b>	<b>Darling Casino Limited - The underbidder for the casino licence granted to Star City on 14 December 1994</b>
<b>LCPL</b>	<b>Leighton Contractors Pty Limited - A subsidiary of Leighton which was contracted by Star City to construct the temporary and permanent casino premises</b>
<b>Leighton</b>	<b>The Leighton Holdings Limited Group of Companies</b>
<b>LPPL</b>	<b>Leighton Properties Pty Limited - A subsidiary of Leighton which was contracted by Star City to co-ordinate the development of the temporary and permanent casinos</b>
<b>PBL</b>	<b>Publishing and Broadcasting Limited</b>
<b>SCM</b>	<b>Sydney Casino Management Pty Limited which is contracted to provide casino management expertise to Star City</b>

## **GLOSSARY OF TERMS**

<b>SHC</b>	<b>Sydney Harbour Casino Pty Limited - The company granted the casino licence on 14 December 1994</b>
<b>SHCH</b>	<b>Sydney Harbour Casino Holdings Limited - the publicly listed holding company of SHC and then Star City</b>
<b>Showboat</b>	<b>The Showboat Inc group of companies which has a 85% interest in SCM</b>
<b>Star City</b>	<b>Star City Pty Ltd is the holder of the casino licence. It was previously known as Sydney Harbour Casino Pty Ltd (SHC)</b>
<b>Street</b>	<b>Inquiry into the Establishment and Operation of Legal Casinos in New South Wales by Sir Laurence Street in 1991</b>
<b>Tobias Report</b>	<b>Report by the Authority's former Legal Member, Mr Murray Tobias QC of his Inquiry into the Showboat group and its business associates</b>

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## **CHAPTER 1 - INTRODUCTION**

Section 31(1) of the Casino Control Act 1992, requires an investigation of a casino licence within every 3 year period from its original grant. The licence now held by Star City was granted on 14 December 1994. This is the first triennial investigation under the Act.

Because the issues raised by the investigation are complex, the Authority appointed Sir Laurence Street to oversee the process. For reasons detailed in the report he could not continue this task and I was appointed by the Authority to oversee the investigation under s.31(1) of the Act and to conduct the inquiry under 143 of the Act.

The original licence was granted to Sydney Harbour Casino Pty Limited (SHC). SHC is a wholly owned subsidiary of Sydney Harbour Casino Holdings Limited (SHCH) which is a public company listed on the Australian Stock Exchange. Shortly before the opening of the permanent casino, SHC changed its name to Star City Pty Ltd. While it is proposed that SHCH will change its name to Star City Holdings Limited, that change has not as yet taken place.

Because of the possibility of the confusion of these various entities over the 3 year period applicable to the inquiry, I have referred only to “Star City” or “casino operator” when referring to the company responsible for the casino. Only where greater clarity is required have I distinguished between the operating company, holding company or the development entity.

Section 31(1) of the Act requires the Authority to investigate and form an opinion as to whether or not

- “ a) **the casino operator is a suitable person to continue to give effect to the casino licence and this Act; and**
- (b) it is in the public interest that the casino licence should continue in force.”**
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The Authority is required to report its findings and opinion to the Minister giving reasons.

To assist the Authority, I was asked to undertake my tasks by examination of specific issues raised in terms of reference created by the Authority. Having regard to the terms of reference I have determined the following:-

I am satisfied that:-

- the standard and nature of the temporary casino which commenced operations on 13 September 1995, at wharves 12 and 13 at Pyrmont Bay, Sydney, and the facilities provided in, or in conjunction with the temporary casino complied with the approved plans and specifications and were completed at an appropriate level of quality; and
- the standard and nature of the permanent casino (Star City) at Pyrmont Bay, Sydney, and the facilities provided in, or in conjunction with the permanent casino comply with the approved plans and specifications and have been completed to an appropriate level of quality; and
- the casino operator has or has arranged a satisfactory ownership, trust or corporate structure; and
- the casino operator has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the casino; and
- the casino operator has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino; and
- the casino operator has sufficient business ability to establish and maintain a successful casino.

I am satisfied as to the expertise of the casino operator, having regard to the obligations of the holder of a casino licence under the Act, including the extent to which the casino operator has complied with:

- its obligations under the Act;
- its obligations under the casino licence; and
- legal agreements between the Authority and the casino operator.

I am also satisfied that it is appropriate for the Authority to form the opinion that:

- the casino operator and each close associate are of good repute, having regard to character, honesty and integrity;
- the casino operator and each close associate of the casino operator does not have any business association with any person, body or association nominated by the Authority from time to time who is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources; and
- each director, partner, trustee, executive officer and secretary and the other officers or persons determined by the Authority to be associated or connected with the ownership, administration or management of the operations or business of the casino operator or a close associate of the casino operator is a suitable person to act in that capacity.

I am also satisfied that the effect of the casino in relation to:-

- the impact or potential impact in relation to the matters referred to in paragraphs 1-6 of the terms of reference; and
- the impact or potential impact of casino operations on individuals who attend, or who may attend, the casino, and their families; and

- the impact or potential impact of the temporary and permanent casinos on the public interest having regard to submissions made by the public,

are not such as would warrant the casino licence being revoked on grounds of public interest.

I am satisfied that the temporary casino has added tourism, employment and economic benefits to both Sydney and the State of New South Wales. While the tourism benefits from temporary casino operations may not be as great as predicted, the creation of substantial employment on a full and part time basis and the resultant economic benefits to the State have been significant.

I am also satisfied that the impact of the permanent casino on tourism, employment and economic development in Sydney and New South Wales may be substantial. It is apparent that the possible adverse impact of the permanent casino on other gaming and wagering industry sectors and on the retail or related industries may not be substantial and may benefit some sectors.

For the reasons set forth in the report, I am of the view that it would be appropriate for the Authority to form the following opinions:-

- **the casino operator is a suitable person to continue to give effect to the casino licence and the Act; and**
- **it is in the public interest that the casino licence should continue in force.**

I have also formed opinions in relation to various matters related to the casino and have identified various aspects of the casino operation which require further monitoring or review. These are identified in the report. However, there are some important areas where action is required and I have accordingly made the following recommendations:-

- There should be close monitoring of air quality in the casino to ensure that it meets relevant technical or agreed standards.
- There should be close monitoring of the movement of minors around the casino complex including, in particular, attempts by minors to gain access to gaming areas and relevant liquor licensed areas.
- There should be close monitoring of illegal or undesirable activity in Pyrmont and Ultimo. In particular, any growth of escort and prostitution services in the area should be examined and, if necessary, a prohibition on such establishments, similar to the prohibition on pawn shop establishments, should be implemented. The area must continue to retain an identity distinct from the casino.
- The Authority should complete as soon as possible its intended review of the practices and procedures of the casino operator regarding cheque cashing facilities.
- That the Government approach Governments in other Australian jurisdictions with a view to obtaining consistency in the exclusion of undesirable persons from casinos.
- That the Government approach the Commonwealth Government and request the amendment of the Financial Transaction Reports Act 1988 to permit casino regulators to obtain information regarding cash transaction reports relating to casinos.
- That Australasian Casino Regulators consider whether or not action needs to be taken in connection with high value casino chips being taken out of casinos.
- That consideration be given to transferring the administrative responsibility for supporting the Director of Casino Surveillance from the Department of Gaming and Racing to the Authority.

During the investigation, I came to an understanding of the complex issues facing the management of the permanent casino and the bodies responsible for its regulation. It is impossible to leave the report without recording some thoughts on these matters.

The opening of the permanent casino will have a significant impact on the Authority and the Director of Casino Surveillance. It is already apparent that the average number of patron visits per day may be up to twice the average number of visits to the temporary casino. Although regulatory systems are in place to deal with casino operations at a complex which is substantially larger than the temporary casino, the increase in patron visits will create various impacts for the regulators. Apart from its other responsibilities, the Authority is the body responsible for issuing liquor licences throughout the whole complex. The Director and his inspectors are responsible for ensuring that all liquor licensees comply with their obligations.

The publicity given to undesirable persons who have been present at the casino points to the need for the Authority and the Director, in conjunction with law enforcement agencies, to remain vigilant and rigorous in undertaking their statutory responsibilities. The Authority must endeavour to ensure that operations at the permanent casino do not cause harm to individuals and families, that systems are in place to keep it free from criminal influence and exploitation, and that gaming is conducted honestly. Unless this task is successfully performed, the casino will deteriorate and the public interest will suffer.

As Sir Laurence Street (1991) commented, the continued success of an effective regulatory regime depends on rigorous initial scrutiny of casino operators and their associates as well as ongoing monitoring of their suitability and constant vigilance in the enforcement of strongly drafted regulatory controls.

The Act provides an appropriate statutory regime to ensure that the Authority will be able to maintain appropriate regulatory control over the casino. The Authority must also maintain its independence from political and administrative pressures. It must continue to be adequately resourced to ensure that it will be able to perform its functions.

It is obvious that facilities which permit gaming or wagering to take place cannot operate without harming some families and individuals in quite tragic ways. However, very few people have suggested to me that because of this potential the casino licence should be revoked and the casino closed. A great many people find the casino an exciting and attractive recreation venue and appear to be able to use it in a disciplined and appropriate fashion. Effective regulation will ensure that the casino continues to operate in an appropriate manner.

## CHAPTER 2 - THE INQUIRY

### Approach to the Investigation

Section 31(1) of the Act provides that not later than 3 years after the grant of a casino licence, and thereafter at intervals not exceeding 3 years, the Authority must investigate and form an opinion as to whether or not:

- “(a) the casino operator is a suitable person to continue to give effect to the casino licence and this Act; and**
  
- (b) it is in the public interest that the casino licence should continue in force.”**

Section 31(2) of the Act provides that the Authority is to report its findings and opinion to the Minister, giving reasons for its opinion, and is to take whatever action under the Act it considers appropriate.

There is little in the Act to guide the Authority when undertaking the section 31 investigation. However, the Act does contain detailed provisions which control the grant of a licence.

In particular, section 11 of the Act specifies five matters to which the Authority must have regard when considering applications for a casino licence. Those matters are:

- The requirements of s.12 of the Act (suitability of applicant and close associates).
  
- The standard and nature of the proposed casino, and the facilities to be provided in, or in conjunction with, the proposed casino.
  
- The likely impact of the use of the premises concerned as a casino on tourism, employment and economic development generally in the place or region in which the premises are located.

- The expertise of the applicant, having regard to the obligations of the holder of a casino licence under the Act.
- Such other matters as the Authority considers relevant.

Section 12 of the Act relates to the suitability of the applicant and close associates of the applicant. It provides that the Authority must not grant a casino licence unless it is satisfied that the applicant and each close associate is suitable to be concerned in or associated with the management and operation of a casino. In short, it requires the Authority to consider:-

- the character, honesty and integrity of individuals and organisations.
- The financial stability of individuals and organisations and the suitability and adequacy of financial resources available to licence applicants.
- Management expertise in casino operations.

Close associates are considered in s.13 of the Act. It provides that a person is a close associate of an applicant or the holder of a licence if the person holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power and by virtue of that interest or power is or will be able (in the opinion of the Authority) to exercise a significant influence over or with respect to the management or operation of the casino business of the operator.

A person is also a close associate if the person holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the casino business. Relevant financial interest and relevant power are defined in wide terms in s.13 of the Act.



The Act does not define the public interest. Although not determinative, some guidance may be gained from the definitions in the Queensland, Western Australia and Victorian legislation. All focus on public confidence and trust in the casino operations rather than broader social issues.

Section 4 of the Casino Control Act 1982 (Q) contains a definition in the following terms:-

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

A similar definition of public interest is contained in s.3 of the Casino Control Act 1984 (WA). The Casino Control Act 1991 (VIC) states:-

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

Prior to formulating the terms of reference for the investigation under s.31 of the Act, the Authority sought advice from the NSW Crown Solicitor and the Solicitor General with respect to a range of issues which the Authority considered relevant to its considerations.

Three questions about which the Authority sought advice were:-

1. Does s.31(1)(a) of the Act apply the provisions of ss.11 and 12 of the Act to the investigation of the suitability of SHC to continue to give effect to the casino licence?

2. If the answer to this question is in the negative, may the Authority determine the criteria by which it is to assess the suitability of the casino operator under s.31(1)(a) of the Act?
  
3. Do the words “public interest” in s.31 (1)(b) of the Act mean that if the Authority determines under s.31(1)(a) that the casino operator is suitable to continue to give effect to the licence it follows that it is in the public interest that the casino licence should continue in force.

The Crown Solicitor advised that although ss.11 and 12 of the Act are not expressly imported into s.31(1)(a) of the Act, the matters referred to in those sections are relevant to the inquiries and opinion which the Authority is required by s.31(1)(a) to form in respect of the casino operator.

The Crown Solicitor was of the view that the matters referred to in ss.11 and 12, in broad terms relate to the corporate structure, probity and financial strength of a casino licence applicant. In his opinion, commonsense would suggest that just as these attributes should be present at the time when an application for a licence is granted they should also be present when the licence is reviewed.

The Crown Solicitor also concluded that the matters referred to in s.12 of the Act do not represent an exhaustive or exclusive list of matters relating to suitability.

When considering the second question, the Crown Solicitor advised that the Authority would be able to take into account such other considerations (apart from ss.11 and 12) as it thought relevant in exercising its functions under s.31(1)(a).

The answer to the third question has considerable significance for the conduct of the investigation. The Crown Solicitor advised that although not entirely mutually exclusive, s.31(1)(a) and (b) deal with essentially different matters. In his opinion s.31(1)(b) was concerned with more general questions than those related to the casino operator and its conduct. Although it is obviously a matter of public interest that the

casino operator is suitable to continue to give effect to the casino licence, the public interest contained in s.31(1)(b) of the Act extends further.

Because of its importance to the issues in the investigation, the Solicitor General was also asked to advise on this issue. In his opinion s.31(1)(b) of the Act was sufficiently broad to include an assessment of the social effects of the continuation of the casino licence. He further advised that the assessment potentially involved a wide-ranging examination of the economic and social effects of the operation of the casino.

Because there is only one casino and, accordingly, only one casino licence, it is inevitable that an examination by the Authority of the social effects of the operation of the casino by the casino operator will raise issues of whether the public interest is served by the existence of a casino licence at all. The Solicitor General also indicated that if the Authority came to the view that the licence should not continue in force nothing would prevent the Authority forming that opinion and reporting it to the Minister and subsequently taking such action as the Authority considered necessary.

The Act provides the Authority with a number of courses of action which it may take including:-

- cancellation or suspension of the casino licence.
- the imposition on the licensee of a pecuniary penalty of up to \$1 million.
- the amendment of the terms or conditions of the licence.
- the issue of a letter of censure to the licensee.
- a direction to the casino operator to take specified action within a specified time to rectify the matter of concern.
- the issue of written directions that relate to the conduct, supervision or control of operations in the casino.
- the amendment of rules of games or the system of internal controls and administrative or accounting procedures.

Accordingly, s.31 of the Act requires consideration of fundamental questions relating to the continuation of the casino. This was not understood by some who made submissions to the Inquiry. Whether future s.31 investigations should be required to consider matters going beyond the integrity and business ability of the particular operator may be questioned. It is a matter warranting further consideration by the Authority and the Minister.

Considering all these matters, the Authority determined that it should have regard to the provisions of ss 11, 12 and 13 of the Act in framing the terms of reference for the investigation. It also had regard to its statutory objects which are as follows:-

**“140. The objects of the Authority are to maintain and administer systems for the licensing, supervision and control of a casino, for the purpose of:-**

- a) ensuring that the management and operation of the casino remains free from criminal influence or exploitation; and**
- b) ensuring that gaming in the casino is conducted honestly; and**
- c) promoting tourism, employment and economic development generally in the State; and**
- d) containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.”**

The terms of reference provide for a wide ranging investigation. The Authority also determined that the public interest would be best served if the public had the opportunity to contribute to the process by making submissions and participating in relevant discussions.

### **Terms of Reference**

In undertaking the investigation referred to in s.31 of the Act the Authority determined that it should consider the following:-

- 1. The suitability of the casino operator, and each close associate of the casino operator, as nominated by the Authority from time to time, having regard to whether:-**
  - 1.1 the casino operator and each close associate are of good repute, having regard to character, honesty and integrity; and**
  - 1.2 the casino operator and each close associate is of sound and stable financial background; and**
  - 1.3 the casino operator has or has arranged a satisfactory ownership, trust or corporate structure; and**
  - 1.4 the casino operator has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the casino; and**
  - 1.5 the casino operator has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino; and**
  - 1.6 the casino operator has sufficient business ability to establish and maintain a successful casino; and**
  - 1.7 the casino operator or any close associate of the casino operator has any business association with any person, body or association nominated by the Authority from time to time and who, in the opinion of the Authority, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources; and**
  - 1.8 each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Authority to be**

**associated or connected with the ownership, administration or management of the operations or business of the casino operator or a close associate of the casino operator is a suitable person to act in that capacity.**

- 2. The standard and nature of the temporary casino which commenced operations on 13 September 1995, at wharves 12 and 13 at Pyrmont Bay, Sydney, and the facilities provided in, or in conjunction with, the temporary casino.**
- 3. The standard and nature of the proposed permanent casino at Pyrmont Bay, Sydney, and the facilities to be provided in, or in conjunction with, the proposed permanent casino.**
- 4. The impact of the use of the temporary casino premises as a casino on tourism, employment and economic development generally in Sydney and New South Wales.**
- 5. The likely impact of the use of the proposed permanent casino premises as a casino on tourism, employment and economic development generally in Sydney and New South Wales.**
- 6. The expertise of the casino operator, having regard to the obligations of the holder of a casino licence under the Act, including the extent to which the casino operator has complied with:**
  - 6.1 its obligations under the Act;**
  - 6.2 its obligations under the casino licence; and**
  - 6.3 legal agreements between the Authority and the casino operator.**
- 7. The effect of the casino in relation to the public interest including, but not limited to:-**

- 7.1 the impact or potential impact of findings by the Authority in relation to the matters referred to in paragraphs 1 to 6 above; and**
- 7.2 the impact or potential impact of casino operations on individuals who attend, or who may attend, the casino, and their families; and**
- 7.3 the impact or potential impact of the temporary and proposed permanent casino on the public interest having regard to submissions made to the Authority by the public.**

**8. Such other matters as the Authority considers relevant.**

#### **Inquiry Pursuant to Section 143 of the Act**

The Authority made it clear from the outset that the s.31 investigation should be as open as possible although it was recognised that it is essential to protect individuals and organisations from unnecessary damage by the public disclosure of sensitive commercial or personal information. Accordingly, the Authority announced that the investigation would include public hearings and, unless there were problems for individuals or corporations, all submissions would also be made public.

One further important decision was taken. The Authority determined that the investigation would proceed by way of an inquiry pursuant to s.143 of the Act.

The benefits to the Authority and the public of linking the s.31 investigation to an inquiry under s.143 of the Act are significant. The person presiding at the inquiry may require evidence to be given on oath and may otherwise obtain information as he or she finds fit. From the public's perspective, submissions made to a s.143 inquiry attract absolute privilege, a significant matter when seeking information, particularly with respect to probity matters.

The Authority also determined to appoint a person who was not a member of the Authority to conduct the inquiry. This was done for a number of reasons including the fact that the Authority was still involved in litigation with DCL, the underbidder for the casino licence, and the casino operator, with the possibility that three members of the Authority who had been involved in the decision to grant the licence may have been required to give evidence.

Sir Laurence Street was initially appointed to oversee the investigation. However, when PBL announced in January 1997, that it had entered into arrangements with Showboat by which PBL would gain control of the management of the casino and 10% of the shares in SHCH, the publicly listed casino company, Sir Laurence determined that because of a possible conflict of interest he should withdraw.

I was appointed to oversee the conduct of the s.143 inquiry and assist the Authority with the investigation.

When the Authority selected the original licensee it formed three Advisory Panels to assist it on particular matters. They were:-

- Probity Advisory Committee - comprising members of the Authority assisted by members of the Authority's investigative team.
- Development Advisory Panel - comprising Authority staff and specialist advisers.
- Commercial Advisory Panel -comprising Authority staff and specialist advisers.

A list of specialist advisers who have assisted the Authority in the casino project is contained at Annexure 1.

In addition to the Advisory Panels the Authority received assistance from the Commissioner of Police and the Director of Casino Surveillance in the Department of



Gaming and Racing. The selection process was the subject of audit by the NSW Auditor General.

For the s.31 investigation and the inquiry, the Authority has continued to seek assistance from its Advisory Panels and specialist advisers.

The Authority also established a probity investigation group (which did not include Authority members on this occasion) and has continued to seek assistance from the Commissioner of Police and the Director of Casino Surveillance.

To assist the investigation, the Authority appointed an Investigation Coordination Committee with me as its Chairperson and with Ms Kaye Loder, the Authority's member with special legal qualifications, as the other member. The Authority's Chief Executive provided liaison assistance. The Authority's Operations Manager provided general support to myself and Ms Loder.

As I had been appointed as an independent person to oversee the investigation and conduct the inquiry, the Authority did not appoint the Auditor General to specifically audit the process on this occasion.

### **Operational Aspects of the Inquiry**

The Authority announced the investigation on 8 November 1996, when it also released an information package to assist persons interested in making submissions.

The Authority indicated that the time for making submissions would close on 31 January 1997, and that it expected to report to the Minister by 30 June 1997.

In late December 1996, the Authority wrote to a large number of persons and organisations whom it thought may have an interest in making a submission to the investigation reminding them of the 31 January 1997 closing date.

On 10 January 1997, Showboat and PBL announced the proposal that PBL would purchase control of SCM, which managed the casino, as well as purchasing from Showboat 10% of the equity in SHCH. PBL also agreed that Showboat could have the right to call on PBL to purchase additional shares it held in SHCH.

The impact of the proposed PBL/Showboat arrangements on the s.31 investigation was immediate and substantial. PBL had effectively become a business associate of Showboat (itself a close associate of the casino operator) and would become a close associate of the casino operator if the arrangement proceeded. PBL's involvement would mean that it would effectively control all aspects of the casino's operations.

The proposed PBL/Showboat transaction, and those persons and organisations associated with it, came clearly within the terms of reference of the s.31 investigation. Accordingly, the Authority determined that consideration of the proposed transaction between PBL and Showboat should proceed as part of the s.31 investigation and my inquiry.

On 13 February 1997, the Authority announced that it had received 31 submissions and had agreed to an extension of time in relation to a further 4 proposed submissions. The Authority determined that the submissions received would be made public.

The Authority also announced that it had combined its consideration of the proposed PBL/Showboat Inc transaction with the s.31 investigation. It stated that after it had received final details of the proposed transaction between PBL and Showboat it would invite submissions from the public in relation to that aspect of the combined investigations. Those submissions would then be referred to me as part of my inquiry.

On 26 March 1997, I announced that I would be commencing public hearings on 22 April 1997. The timing of the commencement of public hearings had been affected by issues relating to the PBL/Showboat transaction because the Authority at that time had not received full details of the proposed arrangements between the parties.

In the announcement I made on 26 March 1997, I indicated that the parties involved in the PBL/Showboat transaction had been advised that until such time as the Authority received final details of the proposal and certain other issues were resolved no further assessment would be undertaken.

I also indicated at that time that only when all investigations had been completed and full and proper consideration given to all relevant issues would consideration be given to the question of the Authority's approval of the proposed transaction.

On 22 April 1997, I conducted a public hearing in relation to the s.31 investigation and the PBL/Showboat matter. I was assisted at that hearing by Mr Bret Walker SC. By that time, the Authority had received 51 submissions and had determined that they should all be available for perusal by the public.

On 3 May 1997, PBL announced that it had terminated the proposed arrangements with Showboat. In a statement released on that day, PBL complained that the Authority was the cause of PBL's withdrawal. The Authority responded to the PBL announcement rejecting the allegations. PBL sought a retraction by the Authority in relation to certain aspects of the Authority's statement. The Authority declined to make any amendments to the statement and there has been no further contact between the Authority and PBL since that time. I am satisfied the complaint by PBL was not justified.

During the period 12 May to 14 October 1997, staff of the Authority assisting my inquiry conducted interviews with a number of persons or representatives of organisations who made submissions. I also held meetings with a number of submission makers and persons connected with them in order to clarify a range of issues. A list of submission makers is provided in Annexure 2.

Following an assessment of the submissions received, it was decided to hold a Public Interest Issues Forum (Public Forum) in order to enable submission makers and others to attend, hear informed comment from other submission makers or experts in particular fields and participate in discussions.

The Public Forum was held on 18 August 1997. It was advertised in the media on 9 and 16 August 1997 and a total of 191 persons/organisations were invited to attend. Professor Jan McMillen, from the University of Western Sydney acted as facilitator.

The following persons presented papers to the Public Forum:-

- Anna Booth, Sydney Harbour Casino.
- Jim Connolly, Wesley Gambling Counselling Services.
- Bill Healey, Retail Traders' Association.
- Tony Ryan, Property Council of Australia.
- Rev Dr Gordon Moyes, Trustees of the Casino Community Benefit Fund.
- Gary Moore, The NSW Council of Social Service.
- Stepan Kerkyasharian, Ethnic Affairs Commission.
- Angela Chan, Ethnic Communities' Council.

Approximately 160 persons attended the Public Forum and the issues raised covered a wide spectrum and encouraged a lively debate. The matters raised are considered in various sections of this Report.

Towards the end of the s.31 investigation process, the media published a number of articles which made allegations relating to the following matters:-

- casino chips allegedly being used as currency.
- money laundering is allegedly taking place at the casino.
- loan sharking is allegedly taking place in or around the casino.
- persons of undesirable reputation are accessing the casino for inappropriate purposes.

These are serious allegations. To assist the investigation, I made a further request for submissions and other inquiries were made. The further request was made on 26 September 1997, with a request for final submissions by 17 October 1997. All previous submission makers were separately notified of the closing date for final submissions. Despite the invitation, only one submission was received in relation to the items contained in the media articles. That submission related to the development of technology to include an electronic device in casino chips. The casino operator was the only other party to make a final submission.

I have considered all these matters in the various chapters of the Report.

## **CHAPTER 3 - CASINO DEVELOPMENT**

### **Terms of Reference**

- 2. The standard and nature of the temporary casino which commenced operations on 13 September 1995, at wharves 12 and 13 at Pyrmont Bay, Sydney, and the facilities provided in, or in conjunction with, the temporary casino.**
  
- 3. The standard and nature of the proposed permanent casino at Pyrmont Bay, Sydney, and the facilities to be provided in, or in conjunction with, the proposed permanent casino.**

### **Background**

This chapter of the Report addresses paragraphs 2 and 3 of the terms of reference as set out above and records a brief history of the casino project from the original decisions regarding the location, size and style of the temporary and permanent casinos through to the monitoring of the development, construction and opening aspects of both of those facilities.

Architectural and urban design issues have, at times, generated significant media and public comment. This was not unexpected given the size of the casino project and its impact, or potential impact, on the community. The casino project emerged at a time when there was considerable debate over a number of architectural and planning issues in Sydney including:-

- the number of “black holes” in the city (excavations left on sites after proposed developments failed to proceed);
  
- the development of the City West area where the Permanent Casino is located as an “urban village”;
  
- whether the Cahill Expressway at Circular Quay should be demolished;

- arguments relating to the development of East Circular Quay; and
- the design merit of the Glebe Island Bridge.

The design aspects of the casino project were, at times, entangled with debate on these other matters. It is clear that debate, including the appropriateness of the casino building, has not come to an end. A recent article in a Sydney daily newspaper about the architectural and town planning merit of a number of buildings in the city makes this plain. It is not for me to contribute my own views to this debate. It is clear that there are some in the community who do not find the building attractive, although others do.

### **Location, Size and Style of the Casino**

Immediately following its establishment on 23 September 1992, the former Chief Secretary requested the Authority, pursuant to s.7(2) of the Act, to provide a report as to the location, size and style of the casino. The Authority's discretion in terms of possible locations for the casino was circumscribed by the Government which provided criteria for the Authority to take into account in the course of preparing its report. These criteria ensured that the building would be large and visible from many locations. The Authority was requested to report as to the following:-

- The location for a casino near the City of Sydney;
- The required size and style of such a casino;
- The development required to take place in conjunction with the establishment of a casino, such as the development of a hotel or other complex of which a casino is to form part; and
- Such other matters relating to the requirements for a casino as the Authority considers relevant.

In undertaking this task, the Authority was asked to have regard to the matters set out below which the Chief Secretary had determined as the Government's preferences for the establishment of a casino.

- The Sydney casino site must be in close proximity to the main tourist, cultural, entertainment and retail facilities of the Sydney CBD and Darling Harbour. The site should also be located so as to enhance the development of the City West precinct adjacent to Darling Harbour.
- The site should be in a location which facilitates an imaginative building designed to take advantage of views to Sydney Harbour and the City.
- Adequate land must be available within the site so as to enable the staged development of a casino catering for approximately 200 gaming tables as well as other related gaming activities, hotel, car park, and ancillary facilities as well as having the potential for further on-site development. The casino shall be linked to, but separate from, the balance of the development.
- There must be excellent access from the site to existing or proposed:
  - \* arterial road systems;
  - \* waterways; and
  - \* pedestrian, rail and maritime services.
- There must be significant potential to integrate the proposed development on the site into the urban and natural environment of the locality, with recognition of any special environmental needs.
- The site must meet the statutory and other requirements of relevant authorities.
- The existing or proposed infrastructure for site services (eg roads, bridges, sewerage disposal, drainage, water and power supply) must be adequate or capable of upgrading to service the development.



- The site must be one which is vested in the Crown or over which the Crown has exclusive right of occupation as at the date of this request.

- The financial return to the State from development of the site as a casino complex should be superior to other uses of the site and to other site options that meet the above criteria. The site of the casino development should preferably add value to existing Government owned sites in the vicinity.

The Authority provided a report (“Report on the Location, Size and Style of the New South Wales Casino”) to the Chief Secretary in late January 1993.

Following consideration of the Authority’s report the Government gave directions to the Authority as to these matters pursuant to ss.7 and 8 of the Act. The Chief Secretary issued directions to the Authority under ss.9 and 10 of the Act requiring it to invite expressions of interest for the establishment and operation of a casino and applications for a casino licence.

The Chief Secretary also advised the Authority of the Government’s preferences in relation to certain matters including a proposal for a temporary casino. (See Annexure 3 for the consolidated list of directions and preferences).

### **Temporary Casino**

As previously indicated, the Authority recommended, and the Government accepted, that there should be a temporary casino.

The reasons behind the Authority’s recommendation were:-

- The anticipated revenue to Government together with a redirection of revenue previously lost to interstate casinos.
- Creation of significant direct and indirect employment.
- Benefits to tourism and economic development.

- The opportunity for the casino operator to employ and train staff, further assess the market and develop relevant systems.

Casino licence applicants were not enthusiastic at the prospect of being required to open and operate a temporary casino. Arguments advanced against the proposal pointed to the significant capital cost in establishing a temporary casino which would only operate for 2 to 2 ½ years as well as the potential impact on the public perception of the casino operator which may flow from the establishment of a “basic” casino on a site and from premises which could not be optimal.

Applicants were also not enthusiastic about nominating their own sites for the temporary casino. They requested the Authority to nominate a site. The Authority nominated wharves 12 and 13 at Pyrmont Bay as a site which would be acceptable as a temporary casino. The wharves were, and still are, owned by the City West Development Corporation which leased the site to the Authority which then entered into sub-lease arrangements with Star City following the grant of the casino licence. The casino operator then obtained approval to refurbish the wharf facility for use as a temporary casino. It cost approximately \$73 million, although some items were also able to be used in the permanent casino.

As part of its licence application, Star City proposed that wharves 12 and 13 would be redeveloped to provide the following facilities:-

- Main gaming floor comprising 115 gaming tables and 500 gaming machines.
- Private gaming room comprising 35 tables.
- Fine dining restaurant seating 100
- Buffet dining restaurant seating 600.
- Grill restaurant seating 130.
- Five Bars.
- TAB facility.
- On-site car parking limited to approx 427 spaces.

The refurbished wharf building was long and narrow which placed significant constraints on design development and efficient operation of the complex.

All necessary statutory approvals were obtained by the casino developer prior to commencement of construction and, again, prior to the temporary casino opening.

The temporary casino development was completed and opened within 9 months of issue of the casino licence with construction being completed on time and on budget.

At completion, all essential contractual obligations and requirements of the Act, the Brief to Applicants and casino licence were met. The Authority considered that an appropriate standard was achieved by the casino operator in the temporary casino development. No structural alterations were made to the building during its operation.

### **Permanent Casino**

At the time the Authority chose Star City as the preferred applicant for the casino licence, Star City committed itself to construct a casino complex which contained the following essential features:-

- Casino complex with 200 gaming tables and 1500 gaming machines.
- Hotel development of 352 rooms, suites etc and 139 serviced apartments of 1, 2 and 3 bedrooms nature at 5 star accommodation standard.
- Hotel recreational facilities with a swimming pool and gymnasium.
- Convention and meeting facilities for 1000 with banquet seating for 600.
- Lyric Theatre (2080 seat).
- Showroom Theatre (900 seat).
- Restaurants and bars.
- Retail and related facilities.

- Restoration of the historic former Sydney Electric Light Station as part of the complex.
- Undercover parking for 2500 motor vehicles and 16 bus spaces.
- Light rail station.

All of the above facilities were in place at the time of opening of the permanent casino. The main gaming floor of the casino is licensed to hold 8,065 persons with 862 persons permitted in the private gaming rooms. The gaming areas in the permanent casino are much larger than those previously available in the temporary casino which accommodated around 5,000 persons on the main gaming floor and 670 persons in the private gaming areas.

The decision by the Authority to nominate Star City as preferred applicant, and the release of its design for the casino building resulted in significant controversy. The Authority was satisfied with the original design lodged by Star City. However, others had different views leading to a vigorous public debate.

During the course of consideration of the development by the Department of Planning, Star City determined that it would lodge a second development application which contained amendments to the casino complex design although it retained the essential features of the complex. The external design of the hotel and apartment components were reconfigured to provide a building which was slightly lower in height.

The Authority did not object to these changes provided the essential elements remained and there was no significant impact on costs. I understand the Authority had previously accepted that there would inevitably be design development in the project and it was not surprised when this occurred.

During this period the Council of the City of Sydney announced that it would take legal action to prevent the permanent casino complex proceeding. The challenge did not ultimately proceed.

The Minister for Planning gave approval to the amended development application following the making of a State Environmental Planning Policy. However, DCL challenged the Minister's approval and commenced proceedings in the Land and Environment Court. The challenge was rejected by the Chief Judge of the Court. DCL lodged an appeal against the decision, but the appeal was later withdrawn.

DCL also challenged the Authority's decision to grant the casino licence to Star City. The challenge was dismissed by the NSW Court of Appeal. Their decision was unanimously confirmed by the High Court.

Responsibility for construction of the casino complex lay with LPPL (as developer) and LCPL (as building contractor). Principal architects responsible for design were Phillip Cox, Richard Taylor in conjunction with the Hillier group from America. A number of theming and related elements were developed by the Landmark Group, an additional American design adviser to the consortium.

The contracted time for completion of the permanent casino was 40 months ie. by 14 April 1998, subject to extensions of time for certain nominated occurrences. Some of those occurrences happened during the course of construction of the complex which resulted in the contracted timeframe being extended to August 1998. The complex actually opened on 26 November 1997, following arrangements with LPPL and LCPL to increase resource utilisation in order to have the project completed ahead of schedule at an additional agreed cost.

The Authority's interest in design issues was limited to ensuring that LPPL complied with its legal obligations and that the complex was constructed in accordance with the approved plans and specifications. Issues related to security and surveillance and the layout of the casino components were of particular importance.

During construction the Authority was required to be satisfied with the project's general conformity with the approved plans and specifications, the general quality of materials and workmanship as specified by Star City on the grant of the licence and the progress and cost of the works. In order to check compliance, representatives of the Authority inspected the works at the conclusion of monthly site meetings and at other times as considered appropriate.

As related previously, the Minister for Urban Affairs and Planning was the consent authority for the casino site under State Environmental Planning Policy No 41 - Casino Entertainment Complex. Development approval, subject to 106 conditions, was granted on 2 December 1994.

The Council of the City of Sydney was the consent authority for building approval. The Council dealt with construction and structural issues related to the Building Code of Australia, health requirements, fire safety issues, building services and health issues. The building approval was granted on a staged basis and was subject to 220 conditions.

The development of the amended concept design has, in the opinion of the Authority, maintained or enhanced the quality of the building as described in the offer to the Authority prior to the issue of the casino licence.

The building satisfied the requirement for Star City to provide a "landmark" development. The potential environmental impacts of the design have been identified and responded to in the design development to the satisfaction of the consent authorities. The requirements of the Brief to Applicants with respect to Building Expression and Planning and on Urban Design have been satisfied. These aspects of the casino development were dealt with in great detail through the statutory planning consent process administered by the Department of Urban Affairs and Planning (DUAP).



Urban design criteria as defined in Regional Environmental Plan No 26 (REP) and the Brief to Applicants have been complied with. The floor space ratio permitted by the Master Plan prepared pursuant to the REP for the site has been certified by the DUAP as complying with the REP. Building heights are well below the allowable levels.

Traffic and modes of transport have been the subject of detailed study and negotiation and all aspects of this detailed part of the project have been complied with. Energy efficiency design requirements have also been satisfied and energy saving devices have been incorporated into the casino development.

The production and submission to the Authority of a maintenance program for the completed building is an ongoing requirement. It is a long term obligation of Star City to keep the casino entertainment complex in prime condition inside and out, and a comprehensive program is required to ensure this requirement is adhered to. As at the date of this Report the plan has not been received but is being prepared in consultation with the Authority.

The estimated construction cost of the permanent casino of \$691m at the casino licence stage has increased by 17.5% to a total current construction cost of \$765m . The additional costs are attributable to a settlement of variation claims in a Supplementary Deed to the Development Agreement plus additional expenditure by Star City on internal theming proposals, fitout, furniture and equipment and the expedition of construction.

Building work has been comprehensively programmed throughout the construction period, with rapid adjustments as changing circumstances affected progress. For a project of its size and complexity the construction process has progressed quickly and has produced a casino complex of acceptable quality.

However, as is often the case with very large building developments there are a number of mostly routine construction matters which will require attention before the complex could truly be regarded as complete. I understand the Authority has provided a comprehensive list of matters requiring attention and these along with matters identified by Star City will be addressed by LPPL and LCPL.

As part of the Building Better Cities Programme (a joint Commonwealth/State funded initiative) arrangements were put in place for the development of a light rail system between Central Railway Station and the Sydney Fish Markets. The light rail project proceeded contemporaneously with the casino project and has been developed as a primary mode of transport for casino patrons and persons living in the surrounding community.

The casino operator was required to provide the structural requirements for the light rail corridor through the casino building, (ie foundations, base slab, columns, walls and roof slab to form the corridor). A station platform was also to be provided with pedestrian access to and from the platform.

The light rail corridor airspace forming the corridor stratum has been transferred to the State Rail Authority, although the casino operator remains responsible for the structure within the casino building.

As the light rail was to travel directly beneath the Lyric Theatre (which has been constructed on an isolated structure separate from the balance of the complex) engineers designed a “floating concrete slab” to acoustically isolate the light rail tracks. The criteria for measurement of the light rail noise and vibration both adjacent to the track side and within the Lyric and Showroom Theatres were also agreed together with a procedure for remedial action should the criteria be exceeded.

Experience to date indicates that engineering solutions to noise and vibration issues have been effective with the Lyric Theatre having excellent acoustic qualities.

## **Conclusion**

**I am satisfied that the standard and nature of the temporary casino which commenced operations on 13 September 1995, at wharves 12 and 13 at Pyrmont Bay, Sydney, and the facilities provided in, or in conjunction with the temporary casino complied with the approved plans and specifications and were completed at an appropriate level of quality.**

**I am also satisfied that the standard and nature of the permanent casino at Pyrmont Bay, Sydney, and the facilities provided in, or in conjunction with the permanent casino comply with the approved plans and specifications and have been completed to an appropriate level of quality.**

## **CHAPTER 4 - CASINO OPERATIONS**

### **Terms of Reference**

- 1.2 the casino operator and each close associate is of sound and stable financial background; and**
  - 1.3 the casino operator has or has arranged a satisfactory ownership, trust or corporate structure; and**
  - 1.4 the casino operator has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the casino; and**
  - 1.5 the casino operator has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino; and**
  - 1.6 the casino operator has sufficient business ability to establish and maintain a successful casino.**
- 6. The expertise of the casino operator, having regard to the obligations of the holder of a casino licence under the Act, including the extent to which the casino operator has complied with:**
- 6.1 its obligations under the Act;**
  - 6.2 its obligations under the casino licence; and**
  - 6.3 legal agreements between the Authority and the casino operator.**

### **Showboat**

Star City has relied principally on the casino and hotel management expertise of the US casino operator Showboat to provide the necessary operational management support for casino operations as well as hotel, food and beverage, and human resources requirements.

Showboat currently employs 6,805 people, controls 6,850 gaming machines, 218 gaming tables and 1,251 hotel rooms in its US casinos. Some details of the individual casinos under Showboat's control are set out below.

### **Showboat Atlantic City, New Jersey**

Showboat entered this market in 1987 and constructed a substantial casino/hotel complex. Essential components of this complex are as follows :

- 100 gaming tables
- 3,600 gaming machines
- 800 hotel rooms
- 3,625 employees
- Lounges, health spa, convention board room and exhibition space and 60 lane bowling alley
- Parking for 2,500 motor vehicles and 14 buses.

This casino is one of the most successful casinos operating in New Jersey jurisdiction.

### **Showboat Las Vegas, Nevada**

This is the original Showboat casino. It is located on the outskirts of Las Vegas and is primarily a casino for local people rather than tourists. Its essential components are :

- 28 gaming tables
- 1,480 gaming machines
- 451 hotel rooms
- 1,280 employees
- 102 lane ten pin bowling centre
- 2,500 car spaces

The casino underwent a number of refurbishments during 1996/97.

### **Showboat New Orleans, Louisiana**

Showboat operated a riverboat casino at Lake Pontchartrain near New Orleans for a period of 2 years in a partnership arrangement.

The riverboat contained 39 tables and 70 gaming machines with parking for 1150 cars. The riverboat was sold in the first quarter of 1995.

### **Showboat East Chicago, Indiana**

In July 1997, Showboat opened a large riverboat casino in East Chicago in a partnership arrangement with local businessmen.

The essential components of the riverboat complex are as follows:-

- 90 gaming tables
- 1,770 gaming machines
- 1,900 employees

With the exception of the Louisiana riverboat (which had been sold) I visited, in conjunction with Authority staff, the remaining 3 Showboat casinos.

During these visits I was able to observe at first hand the operations of each and was able to meet with and interview the relevant casino executives. The visit also gave me the opportunity to see other major casinos operating in the New Jersey and Nevada markets at first hand and to gauge the relative operational expertise of Showboat in its main markets.

During this period I also met with representatives of the regulatory bodies in New Jersey and Nevada and ascertained their views with respect to the operational performance and skills of the Showboat group. Investigators attached to the Authority met with law enforcement and casino regulatory agencies in the jurisdictions in which Showboat is operating and in which it has relevant business interests.

All regulators expressed the view that the Showboat group are capable operators of significant casino complexes. My own enquiries do not lead me to doubt the skills and experience of the Showboat personnel in the management of large casinos.

In addition, I visited the temporary Sydney casino and the Melbourne, Gold Coast and Brisbane casinos which gave me an appreciation of the operation of casinos in the Australian context. Specialist advisers attached to the Authority also visited other Australian casinos and drew on their personal knowledge to assess Star City and SCM. Anonymous inspections and observation of the temporary casino at various operating times was also undertaken.

To further facilitate my inquiries I was assisted by specialist casino, hotel and tourism consultants attached to the Authority as well as by a range of Authority staff with relevant casino and investigative expertise.

### **Star City**

All of the key executives of Star City were interviewed as part of this aspect of the investigation. A list of persons interviewed and their positions is at Annexure 6. A number of focus group meetings with Star City employees drawn from front and back of house, gaming and non-gaming departments were also conducted.

Regular operational meetings have taken place between the Authority's Chairperson and Chief Executive and the Chairman and Chief Executive of Star City over the last 3 years. The Authority's Chief Executive also meets on a regular basis with the Internal Audit Committee of the Star City Board of Directors.

The Director of Casino Surveillance in the Department of Gaming and Racing provided reports to me and the Authority with respect to the ability of the casino operator and relevant Showboat staff to manage gaming operations. The Director's views are dealt with in more detail later in this Chapter.

## **Temporary Casino**

As previously indicated, the temporary casino was located at the former overseas passenger ship terminal at Wharves 12 and 13 at Pymont Bay, while the permanent casino is located on the site of a former power station adjacent to the temporary casino site.

The temporary casino contained 150 gaming tables (115 on the main gaming floor and 35 on the private gaming floor) and 500 gaming machines. The gaming tables provided a range of recognised table games approved by the Authority as follows:-

- Baccarat;
- Mini Baccarat
- Blackjack
- Roulette
- Pai Gow
- Sic Bo
- Big Wheel
- Craps
- Two Up
- Caribbean Stud Poker

The casino operator was permitted to offer table games at varying minimum and maximum bet levels. Some of the games were available during the day with \$2 minimum bets and generally tables were available throughout the day and evening with minimum bets of \$5. While a number of tables were available at the lower end of the bet limit, many tables operated with minimum bet levels of \$10 to \$50 on the main gaming floor with higher limit tables available in one pit on the main gaming floor.

The minimum bet levels were sometimes the subject of complaint by patrons who did not wish to risk larger amounts of money on each bet. These complaints often stemmed from the inability of patrons to access lower limit gaming tables at peak operating times. On a number of nights each week, between 8 pm and 2 am the



number of patrons wishing to play at the gaming tables far exceeded the number of available tables. One of the few means available to the operator to address the lack of tables was to increase bet limits at some tables. Although this caused some complaint I believe it was an appropriate management response to the constrained facilities at the temporary site.

The private gaming room was located on the second floor of the temporary casino. The 35 gaming tables in this room (there were no gaming machines) were for the exclusive use of invited patrons who were expected to wager significant amounts of money. This area operated successfully although its patronage was affected by the inability of the casino operator to compete successfully in the market for international junket and premium players.

Gaming machines available in the temporary casino were provided by two manufacturers - IGT and Aristocrat. These machines were the same as those approved for operation in registered clubs and contained a wide variety of games.

The physical constraints of the site and building satisfied the basic requirement for the provision of 150 gaming tables and 500 gaming machines. However, the extremely long length and limited width of the main casino floor required a predominance of centreline gaming table pits. The gaming machines were clustered in available space not occupied by food and beverage outlets, which were necessarily contiguous with the kitchens. Accordingly, during peak demand periods there were physical constraints on the players in some gaming areas. The configuration of the gaming floor, dictated by the building shape, inhibited the player traffic flow to all available gaming machines. This affected the gross gaming revenue potential from both tables and machines.

It has been reported to me that the general technical standards of the main gaming floor dealers and floor persons were satisfactory. Variations from the required standard were attributed to the inexperience of dealers, many of whom were new to casino gaming. It is generally accepted that it takes up to 2 years for a dealer to become fully proficient.

The technical standards and speed of dealers in the high limit zone on the main gaming floor were, as expected, superior to those on the remainder of the main gaming floor.

The private gaming room provided adequate facilities, ambience and atmosphere. The facility was not visually exciting, but was satisfactory for the persons who patronised it.

The technical skills displayed by gaming staff in the private gaming room were of good to high standard. This is to be expected in a gaming area dedicated to high and premium level table limits and differentials where bets from \$50 to \$50,000 could be made.

The mix of game types and denominations of the 500 gaming machines was radically changed a number of times during the life of the temporary casino.

Specialist advisers to the Authority found that the limitation of 500 gaming machines in the temporary casino presented a significant challenge to the casino operator to satisfy demand during evenings and weekends, and when “bussed” visitors were present. The permanent casino will offer improved facilities.

There were 3 main food outlets and a number of beverage outlets in the temporary casino. Observations by the Authority and its specialist advisers, as well as anecdotal and other evidence, indicated that the level of food standard and service in the temporary casino was not as high as could be expected in a major casino (even operating in temporary premises). While the premises presented difficulties, it was recognised even by the casino operator’s personnel that there were problems in this area. They must not occur in the permanent facility.

As with most casinos that operate 24 hours per day year round, the temporary casino experienced peaks and troughs of demand within a day and throughout a week. It took considerable time for the casino operator to recognise and take action to smooth

these fluctuations. During the licence application process, Showboat representatives emphasised their marketing and operating abilities. However, prior to the opening of the permanent casino, problems requiring significant marketing effort still existed.

Some of the problems with food and beverage at the temporary casino resulted from errors made by the casino in determining the ethnic nature of patrons and their corresponding requirements. This reflected a poor understanding of the likely market.

The appointment of a new Chief Executive in late 1996, coupled with changes to certain key staffing positions, a move to a more marketing orientated operation and the utilisation of 1,400 car spaces in the permanent casino site, resulted in a significant lift in patronage, revenue and service in the temporary casino.

Entertainment in the temporary casino commenced at a basic level. In the last 12 months of its operation, Star City established a supper club with high quality Australian entertainers performing which proved very popular with patrons.

I am satisfied that management recognised problems in food and beverage and entertainment in the temporary casino. Towards the end of its operation the quality of food, service and entertainment improved significantly. This improvement must continue to be reflected in the operation of the permanent facility.

### **Permanent Casino - Commencement of Operations**

As I have previously indicated, the permanent casino commenced operations on 26 November 1997, some 9 months prior to the last date upon which Star City was contractually bound to commence operations and approximately 6 months before the originally programmed commencement date.

At the time of opening, the Authority was satisfied that the complex had been completed in accordance with the plans and specifications previously approved. Star City had procured the necessary development consents and building approvals.

The Authority had approved some, and given conditional approval to other, gaming equipment to be used in the conduct of gaming and all necessary internal controls and administrative and accounting procedures were in place to the Authority's satisfaction. The Authority was satisfied with the operation of security and surveillance systems.

However, prior to opening, a range of quality control problems became evident with the gaming machines and peripheral equipment which were to be used at the commencement of casino operations. The problems became apparent during testing by Star City and the Authority's specialist advisers. The manufacturers were able to address and remedy the most significant problems to the general satisfaction of the Authority. However there are still some matters to be resolved. The continued acceptability of all gaming equipment should be closely monitored by the Authority. I understand that appropriate measures have already been put in place.

One requirement of the Authority and the Government was not met at the time of opening of the permanent casino. A ministerial direction had been in place since the Authority called for expressions of interest in the establishment and operation of the casino in mid 1993. The direction effectively meant that the casino operator could not increase the number of gaming machines in the permanent casino from 500 to 1500 until such time as the development of a central monitoring system, to monitor the operation of the machines, had been completed.

There are a number of reasons, not all within Star City's control, why the system was not completed by the time the permanent casino was ready for opening. However, Star City must accept responsibility for failing to meet this significant requirement.

Because the commencement of gaming operations had been brought forward by many months, which had revenue benefits to the State, the Authority recommended to the Minister for Gaming and Racing that he extend the timeframe within which the casino operator must introduce the central monitoring system by a period of 90 days.

The Minister agreed to the Authority's recommendation. However, the Minister and the Authority have made it clear to Star City that action will be taken if the extended timeframe is not met. I am satisfied this was an appropriate outcome.

I am also aware that the Authority has expressed concern that a number of other gaming and computer based systems were not fully operational from the commencement of gaming on 26 November 1997. The casino operator will no doubt complete the development of these systems as expeditiously as possible. However, the systems will require appropriate assessment before they are fully introduced.

The permanent casino opened with 200 gaming tables and 1,500 gaming machines. One hundred and sixty gaming tables are located on the main gaming floor with 40 tables available on another floor for private gaming purposes. All of the gaming machines are located on the main gaming floor.

Most of the casino operator's gaming staff have transferred from the temporary to the permanent casino. The experience they gained in the temporary casino should be reflected in their performance at the permanent casino.

The layout of the gaming areas of the permanent casino complex is far superior to the temporary casino. The permanent casino is a purpose built complex.

It is too early to judge whether the number of gaming tables and gaming machines in the permanent casino will satisfy market demand at peak times. This is an issue which the Authority will have to monitor and assess in 1998. If it is evident that the number of gaming tables and gaming machines is clearly insufficient to cater for market demand consideration should be given to permitting an increase. In its initial direction to the Authority the Government indicated that the number of gaming tables should be the subject of review from time to time.

The casino operator is currently offering the same games at the permanent casino as were available in the temporary casino, together with a derivation of blackjack called “super sevens” as well as a derivation of poker called “let it ride”. Tournaments involving blackjack and baccarat were introduced in the last few months of the temporary casino and will be available in the permanent casino.

In addition, I understand that the operator proposes to introduce a number of new games within the next 12 months. This should add to the popularity of the gaming mix at the complex.

Gaming machines in the permanent casino are again provided by IGT and Aristocrat. However, there is a suite of new games available on gaming machines and the casino is now able to introduce multi-terminal gaming machines and video draw poker gaming machines. Multi-terminal gaming machines allow more than one patron (and often up to 20) to play a particular game at different terminals eg simulated roulette while video draw poker machines were previously only available to hotels.

The permanent casino complex is also fundamentally different to the temporary casino with respect to food, beverage and entertainment.

Although Star City has maintained control over a number of restaurants and bars connected with casino operations, it has sub-let some areas to private sector operators. This will ensure that there is competition between casino managed facilities and its tenanted competitors.

The mix of food and beverage outlets is fundamentally different from the temporary casino. The permanent casino now caters to a range of different markets defined by price and menu. Indoor and outdoor dining is available and efforts have been made to integrate the food and beverage with the entertainment provided in the complex.

The quality of food and beverage provided in the permanent casino is superior to the temporary casino. However, some early problems do exist with the proper co-ordination of service in certain hotel and restaurant areas. These are known to Star

City and corrective measures are being taken. It is to be expected that there will be some problems in the initial operations. All staff have been required to cope with levels of demand which have far exceeded expectations. Patron visits have exceeded 35,000 on average each day. It should be understood that the casino operator has employed many persons who did not previously have jobs. A large number of traineeships have also been created.

Food and beverage and the general quality of service in a casino/hotel complex which promotes itself as 5 star standard must be maintained at high levels if it is to have the confidence of its customers. It is clear that patronage of the hotel and casino, and consequent revenue and economic benefits to the State, will suffer if appropriate levels are not maintained in the casino complex as a whole. The Authority should continue to monitor these matters.

With respect to the entertainment facilities, I am advised that the 2,080 seat Lyric Theatre and 900 seat Showroom are of world class standard although I understand that there are a small number of seats in the Lyric Theatre which have impaired sight lines. I note that these seats form part of the 80 extra seats included above the 2,000 which were originally included under the building contract. Nevertheless, the sight lines for those small number of seats should be adjusted, if possible. However, I am satisfied that the Lyric Theatre meets the world class standard it aspires to. The quality of current and proposed entertainment for these venues appears to be very high.

I understand that the casino operator has arranged for a company associated with Sir Andrew Lloyd Webber to manage the Lyric Theatre. This is a sensible and commercial approach.

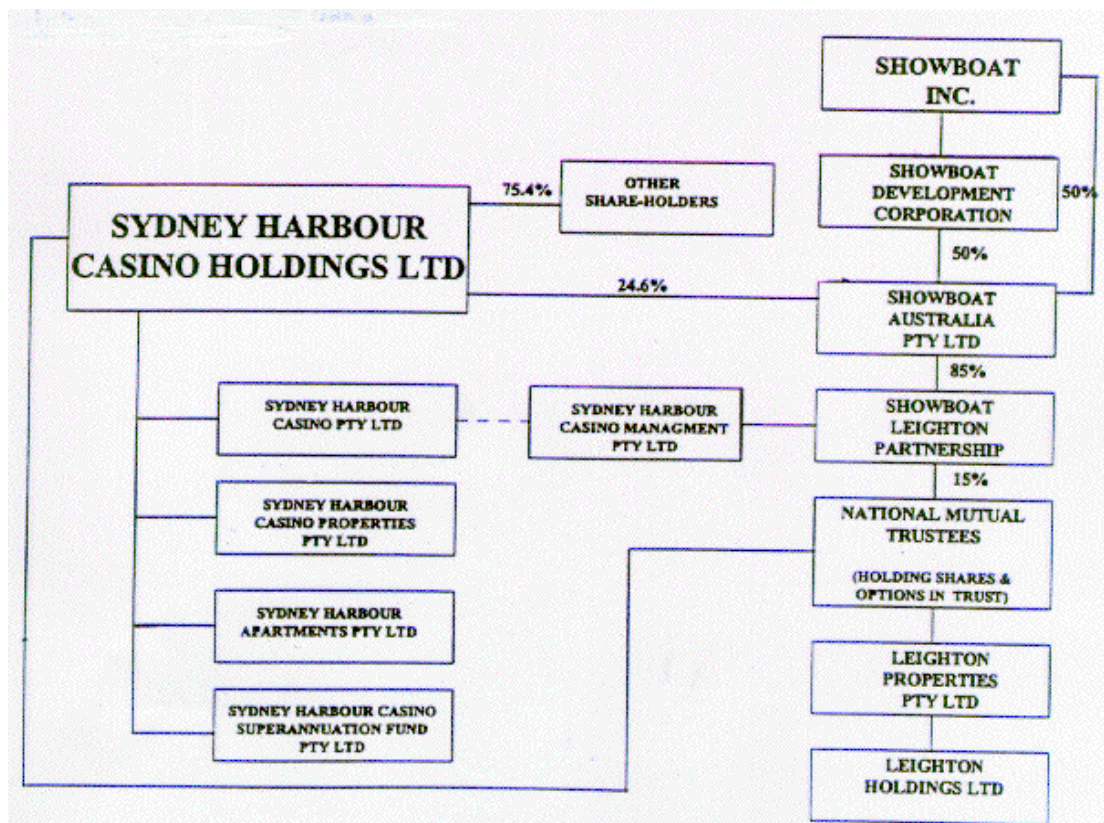
It is too early in the operation of the permanent casino to express any view on the entertainment provided. However, if the apparent success of the opening night is continued, the casino operator will have achieved its stated aims in these areas and met the requirements of the Authority.

## Corporate Structure

The Authority's specialist financial experts have undertaken a comprehensive analysis of the casino operator's operating results in comparison to its initial licence application and prospectus projections. Consideration has also been given to its financial resources.

While I have included some of the relevant data in this section of the Report I have not included certain more sensitive material which should remain confidential. This material is not significant to the conclusions I have reached.

## Corporate Structure



(then SHC) ownership and corporate structure as set out above were satisfactory. The company was essentially controlled by Showboat together with a number of



institutional investors. At the time of issue of the SHCH Prospectus (May 1995) the holders of 5% or more of SHC were as follows:

• Showboat Australia	-	26.3%
• Bainsec Nominees Pty Ltd	-	22.0%
• Chase Manhattan Nominees Ltd	-	10.6%
• Soros Capital Indonesia (L) Ltd	-	6.5%
• National Nominees Ltd	-	5.5%
• National Mutual Trustees	-	5.0%

Bainsec Nominees Pty Ltd held its 22% shareholding on behalf of the institutional investors who contributed moneys to SHC at the time of grant of the casino licence.

Substantial shareholders as at the date of the Prospectus were:

• Showboat Australia	-	26.3%
• Massachusetts Financial Services Company	-	9.8%
• Soros Capital Indonesia (L) Ltd	-	9.8%

Each of Showboat Australia and National Mutual Trustees (which is the trustee of the Leighton 5% interest) is also entitled to be issued options to purchase an additional 7% of the fully diluted capital of SHCH as at the date the options are granted. The options will be able to be exercised no earlier than 1 July 1998 with the latest date for exercise expected to be 30 June 2000. They will have an exercise price of \$1.15 per ordinary share. In addition, SHCH has agreed to issue options to certain parties that were involved in the preliminary bidding for the casino licence. These options will enable their holders to subscribe for up to an aggregate of 5,125,750 ordinary shares at an exercise price of \$1.15 per share. These options will also be exercisable no earlier than 1 June 1998 and with the latest date for exercise expected to be 30 June 2000. Exercise of these options is subject to the prior approval of the Authority.

As at 28 November 1997, the top 20 preferred ordinary shareholders of SHCH were:-

• Chase Manhattan Nominees Ltd	9.30%
• National Nominees Ltd	8.15%
• Westpac Custodian Nominees Ltd	7.62%
• ANZ Nominees	3.76%
• Citicorp Nominees Pty Ltd	3.30%
• Aust. Mutual Provident Society	2.61%
• National Mutual Trustees Ltd	2.05%
• BT Custodial Services Pty Ltd (No 1)	1.92%
• BT Custodial Services Pty Ltd (No 2)	1.30%
• Permanent Trustee Company Ltd	1.01%
• NRMA Investments Pty Ltd	0.96%
• Queensland Investment Corp	0.91%
• Zurich Australia Ltd	0.76%
• C'wlth Custodial Services Ltd	0.77%
• Bainpro Nominees Pty Ltd	0.61%
• Queensland Investment Corp	0.59%
• Merrill Lynch (Aust) Nominees Pty Ltd	0.57%
• Macquarie Life Ltd	0.52%
• MLC Ltd	0.52%
• SAS Trustee Corp	0.39%

Just prior to the opening of the permanent casino, the casino operator changed its name to Star City Pty Ltd and I understand that the publicly listed holding company will seek approval to change its name to Star City Holdings Limited in the near future.

## Financing Arrangements

At the time of grant of the casino licence, the financial structure of the casino operator was as follows:

• <b>Equity</b>	<b>\$M</b>
- Showboat	135
- Leighton	25
- Institutional Investors	345
• <b>Debt</b>	
- Commonwealth Bank of Australia	500
- Commonwealth Bank of Australia Working Capital Facility	50
	<hr/>
	\$1,055M

Related to the debt facility the Commonwealth Bank of Australia (CBA) has received options to subscribe for 17,250,000 ordinary shares at an exercise price of \$1.10 per share. These options may be exercised no earlier than 1 July, 1998 and expire on 13 December 1999.

At the time of the grant of the licence, the Authority was satisfied as to the suitability and adequacy of the financial resources of the casino operator to ensure the financial viability of the casino. The Authority was also satisfied as to the sources of those financial resources.

## Financial Position

The actual financial results to 30 June 1997, when compared with the forecast financial results to 31 December 2000, reveal that the casino operator substantially overestimated the financial performance of the Sydney casino when submitting its projections with its application for the casino licence. These overestimations have a significant impact on the projected revenue to the Government for casino duty and

community benefit levy. However the Authority and the NSW Treasury have always taken a more conservative view of the casino operator's projections, as was the case with projections advanced by other applicants during the casino licence application process.

It is contended by Star City that the licence application data, including projections, were based on assumptions and information known in 1994 for a "Greenfield" enterprise with a partially monopolistic position with regard to gaming tables entering into a mature and very competitive market for electronic gaming devices. In the opinion of Star City it retained high quality consultants to compile the forecasts but, because of the complex business situation for which there were no comparable case studies in Australia, prediction was difficult.

The operating loss after income tax for the period from 1 July 1994 to 30 June 1997 amounted to \$64.5 million as compared with the application estimate for the same period of a profit of \$98.5 million, a difference of \$163 million. Through a combination of operating losses and increased capital costs for the casino complex it has been necessary for the casino operator to increase its debt funding from an application estimate of \$500 million to the present level of \$800 million.

In addition to the increased debt level, the casino operator obtained additional working capital by the issue of 35.25 million preferred ordinary shares of \$1 each at a premium of \$0.84 per share on 21 May, 1996 thus increasing funds by \$64.86 million.

As a result of the overstatement in the application forecasts it is likely that there will be a continuing substantial underachievement of operating profit after tax up to December 2000.

Present forecasts do, however, reflect a positive trend in profitability commencing with the year ending 31 December 1998 and the casino operator has adopted a conservative approach to its accounting treatment of pre-opening and related expenses which has kept its balance sheet under control.

I am satisfied that the sharemarket has been fully aware of the casino operator's operating position and would have taken into account the difficulties with the original operating estimates. These have certainly been taken into account by the NSW Treasury in its budget estimates for casino duty and community benefit levy for the first 2 years of operation as indicated in the table below.

	<b>SHC PROSPECTUS</b>	<b>ACTUAL (\$M)</b>	<b>TREASURY BUDGET ESTIMATE (\$M)</b>
1995/96	74.00	66.80	53.14
1996/97	101.00	85.79	84.40

It was stated in the prospectus that a fixed price contract for \$691.1m for construction of the casino had been entered into with Leighton but that after taking into account claims for additional works as a result of a revised development application the fixed price was anticipated to increase to \$717m.

On 26 July 1996, Star City and Leighton entered into a supplementary agreement concerning matters in relation to the administration and management of the project including an accelerated completion date. As a result, the project cost increased to \$876.4 million.

The casino operator has recently acquired the old electricity switching station adjoining the permanent casino at a cost of \$11m and is forecasted to spend the following amounts in constructing additional facilities:-

	<b>\$M</b>
1997	9
1998	50
1999	<u>50</u>



It is proposed that additional food and beverage facilities, retail, conference and convention facilities will be constructed on this site. An additional 500 car spaces will be constructed below ground and will link to the permanent casino carpark thus increasing car parking availability to 3,000 spaces. These facilities, particularly car parking, are considered appropriate.

I am advised that the casino operator proposes to purchase a further parcel of land near the permanent casino. While no final details of the purchase are available, it is not likely to have a major impact on the casino operator's financial stability at this point in time.

The projected total capital cost of the casino complex is now estimated at approximately \$1 billion compared with the original bid estimate of \$715 million, an increase of \$285 million. The increased capital costs have mainly been funded by increased debt. The listed shares of SHCH have been well supported on the Australian Stock Exchange.

Although the casino operator has not been able to achieve the projections contained in its application for the casino licence, and its master budget for the year ending 31 December 1997, it is still in a sound financial state. With the opening of the permanent casino, the casino operator is in a position to achieve a strong growth in profitability although probably not at the levels reflected by its forecasts.

The financial statements and related information lodged by Showboat with the Securities Exchange Commission ("SEC") disclose a substantial reduction in earnings per share from US\$1.02 for the year ended 31 December, 1994 to US\$0.15 for the nine months ended 30 September, 1997. The results for the three months ended 30 September, 1997 show a reversal of this trend. Taking into account the comments of the directors of Showboat on the operations of the company and the value placed by the market on the shares listed on the New York Stock Exchange there are strong indications of anticipated growth in future earnings of the company towards the levels achieved in the 1994 and 1995 years. Management fees from the permanent Sydney Casino will add significantly to Showboat's financial performance.

## **Compliance with Casino Control Act and Casino Licence**

The Act sets out a comprehensive regulatory regime for the operation of the casino. The casino licence incorporates all of the relevant provisions of the Act, breaches of which also constitute a breach of the casino licence. Other conditions of the casino licence incorporate the obligations of the casino operator under the relevant project legal documents.

During the operation of the temporary casino there were a number of breaches of the Act and the licence by the casino operator. The Authority took action in the following areas:

- **Breaches of Section 62(1)(b) of the Act**

This section of the Act requires the casino operator to notify the Authority on 1 January and 1 July each year of the list of all licensed employees having functions in or in relation to the casino. The requirement is essential for proper regulatory operations. The Authority imposed a pecuniary penalty of \$15,000

- **Breaches of Section 44(3) of the Act**

This section provides that the casino operator must not employ or use the services of a person to exercise any function of a special employee unless the person is authorised by a licence to exercise the function concerned. The requirement is essential so as to ensure that only those persons who are qualified to exercise particular functions actually exercise those functions. The Authority imposed a pecuniary penalty of \$100,000

- **Breaches of Section 62(1)(a) of the Act**

This section requires the casino operator to notify the Authority of the commencement of the exercise of functions in the casino of each licensed employee within seven (7) days after the employee commences those functions. The requirement is essential so that the Authority is aware of whether all licensees have taken up their positions in the casino business. The Authority imposed a pecuniary



penalty of \$30,000

- **Breaches of Section 62(1)(c) of the Act**

This section requires the casino operator to notify the Authority within seven (7) days after any employee ceases to exercise functions in the casino. The requirement is essential so that the Authority is aware of persons who have ceased to be employed by the casino operator which automatically results in licence termination. The Authority imposed a pecuniary penalty of \$30,000

- **Breaches of Section 62(1)(c) of the Act**

This section requires the casino operator to notify the Authority within seven (7) days after any employee ceases to exercise functions in the casino. The requirement is essential so that the Authority is aware of persons who have ceased to be employed by the casino operator which automatically results in licence termination. The Authority imposed a pecuniary penalty of \$3,000

- **Breach of Section 37(1) of the Act**

This section requires the casino operator to not enter into a controlled contract until after the period within which the Authority may object to that contract. The casino operator failed to comply with this requirement, but the failure was regarded as unintentional. The Authority issued a letter of censure

Further details of the breaches are contained in the Authority's Annual Reports for 1995/96 and 1996/97.

The Act provides for a Director of Casino Surveillance to be appointed by the Governor on the recommendation of the Minister for Gaming and Racing. The Director holds an independent statutory position and is not subject to the direction or control of the Authority although the Authority is required to report on the efficiency and effectiveness with which the Director undertakes his or her functions. The Director is responsible for the appointment and supervision of casino inspectors and both the Director and inspectors are attached, for administrative purposes, to the Department of Gaming and Racing.

The principal function of the Director and casino inspectors is to supervise and inspect the operations of the casino and the conduct of gaming in the casino for the purpose of ascertaining whether or not the casino operator is complying with the Act, the conditions of the casino licence and any directions given to the casino operator by the Authority. A further function of the Director is to detect offences committed in or in relation to the casino and to prosecute offences under the Act. The Director is also empowered to direct that persons be excluded from the casino premises.

A number of inspectors are located at the casino premises and monitor gaming on a 24 hour a day, 7 day a week basis. Inspectors have unhindered access to all areas of the casino, have their own access to security and surveillance cameras and have wide powers under the Act to detain persons and to require the production of papers and records.

Under s.110 of the Act, inspectors are required to receive and investigate complaints relating to the conduct of gaming in the casino.

The Director is also required to prepare and furnish to the Authority such reports concerning the operations of the casino and the conduct of gaming in it as the Director thinks fit or as the Authority may request. The Director is also responsible for investigating employee licence applications and recommending to the Authority whether or not it should grant a licence.

The Authority requested the Director to report specifically to it in relation to the s.31 investigation. The Director has provided reports on a monthly basis during the course of the investigation. The Authority asked the Director to advise on a large range of issues relating the level of compliance by the casino operator. These are contained at Annexure 4.

The Director's reports indicate that he is of the opinion that the overall level of compliance by the casino operator with its operational obligations under the Act and the casino licence has been satisfactory.

The Director has also reported that:

- The management of the casino, as located with SCM, is comprised of persons with sufficient experience to manage a casino and that there are sufficient persons amongst the office holders of SCM who have demonstrated experience in the management and operation of a casino to support those whose expertise has not been developed in a casino or gaming context.
- The Executive Division of Star City is comprised of persons with sufficient experience to manage and operate a casino and that the casino operator has been able to obtain the services of a sufficient number of persons with the Executive Division who have demonstrated experience in the management and operation of a casino to support those whose expertise has not been developed in a casino or gaming context.
- The casino operator has been able to obtain the services of persons who have sufficient experience in the management and operation of a casino and that the casino operator has, and is able to, obtain the services of persons who have sufficient experience in casino operations to support the work of those tasked with the management and operation of the casino.

I am satisfied these reports should be accepted.

While the Director has advised that, in his opinion, the casino operator and its staff have the necessary expertise to manage the casino and that the overall level of compliance by the casino operator has been satisfactory, the Director has advised that there are certain compliance related issues which he currently has under review or are the subject of further examination.

These matters may or may not result in the Director recommending to the Authority that disciplinary action be taken against the casino operator. As the Director has not yet reported and the casino operator has not yet had the opportunity to respond to any report the Director may make, it would be inappropriate for me to canvass the issues

in this Report. However, I would expect them to be included in any further review of the suitability of the casino operator to continue to hold a casino licence. I am satisfied that on the material presently available none of these matters could involve findings which would prejudice the continuation of the present licence.

### **Complaints by Patrons**

As I have previously indicated, one of the responsibilities of the Director of Casino Surveillance and his inspectors is to investigate complaints made by patrons regarding the operation of gaming in the casino.

In the period of operation of the temporary casino there were 604 complaints by patrons. By far the majority of complaints related to events at tables. Examples are whether or not a patron had placed a bet on a particular number or section of a roulette table, or whether or not a patron had been under-paid by a dealer.

In the permanent casino, the operator has introduced a new system of surveillance called "Pit Cam". Under this system a camera is placed at each table in addition to the usual overhead cameras. The camera records all betting activities at the table and is connected to a video monitor in the pit. In the event of a dispute, it is now possible for pit staff to replay the relevant activity and deal with the issue on the spot, rather than involve the casino's surveillance group and the government inspectors. Of course, government inspectors are always available if needed. The system is likely to reduce patron complaints substantially and is an important customer service enhancement for the operator.

The other main area of complaint has related to the procedures adopted by casino security personnel in dealing with patrons who may have been involved in potential offences or other criminal activity or who may be causing a disturbance in the casino.

Section 88 of the Act provides that any person who is for the time being in charge of the casino, an agent of the casino operator, or a casino employee and who suspects on reasonable grounds that a person in the casino has contravened, is contravening or is

attempting to contravene the provisions of the Act relating to cheating may detain the suspected person in a suitable place in or near the casino until the arrival of a police officer.

Section 88 of the Act also provides that a person may not be detained unless no more force is used than is proper in the circumstances, the person is informed of the reasons for the detention, the police are immediately notified and the person detained is detained for no longer than is reasonable to enable a police officer to attend.

In the first 12 months of operation of the temporary casino, there were a number of complaints by patrons as to their treatment by casino security personnel. Some patrons have taken legal action against the casino operator for wrongful detention and assault. One of these actions, which commenced in 1996, was recently finalised by the courts and resulted in a \$60,000 damages award to the patron. There are still some legal actions pending.

This is a difficult area for both the casino operator and individual patrons. It is likely that there will be complaints about the treatment of certain patrons from time to time. I understand that this is an area which the Authority is monitoring closely. However, I am satisfied that the level of patron complaint is not such as would warrant special attention although regular monitoring should continue.

### **Legal Obligations Between the Authority and the Casino Operator**

Prior to the nomination of Star City as preferred applicant for the casino licence, the Authority required both of the shortlisted applicants to sign a Compliance Deed to which was attached a number of legal agreements which governed the development and operation of the temporary and permanent casinos.

The Compliance Deed obliged each of the shortlisted applicants to comply with the obligations set out in the legal agreements should either of them be granted a casino licence.

On the grant of the casino licence, the Compliance Deed became redundant and the legal agreements became binding in their own right. The relevant agreements are summarised in Annexure 5.

As part of the s.31 investigation, the casino operator has been required to provide to the Authority evidence of its compliance with all of its legal obligations. The operator's response has been assessed and I am satisfied that there has been general compliance by the casino operator with its obligations under the relevant legal agreements.

### **Litigation**

One of the obligations of the casino operator under section 35 of the Act is a requirement to advise the Authority of major and minor changes in the casino operator's state of affairs.

The operator has kept the Authority informed of both major and minor changes. In this context the Authority has examined the circumstances surrounding various legal actions involving the casino operator. Except for a small number of claims by employees or former employees, most legal actions have related to gaming, workers compensation or public liability issues and these could be expected in connection with a company of the size and nature of operation of Star City.

I am satisfied that the casino operator has complied with its obligations and there are no issues of significance in connection with this area.

### **Conclusion**

#### **I am satisfied that:**

- **the casino operator and each close associate is of sound and stable financial background;**
- **the casino operator has or has arranged a satisfactory ownership, trust or corporate structure;**

- **the casino operator has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the casino;**



- **the casino operator has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino; and**
- **the casino operator has sufficient business ability to establish and maintain a successful casino.**

**I am satisfied as to the expertise of the casino operator, having regard to the obligations of the holder of a casino licence under the Act, including the extent to which the casino operator has complied with:**

- **its obligations under the Act;**
- **its obligations under the casino licence; and**
- **legal agreements between the Authority and the casino operator.**

## **CHAPTER 5 - PROBITY OF CASINO OPERATOR AND ITS CLOSE ASSOCIATES AND BUSINESS ASSOCIATES**

### **Terms of Reference**

- 1. The suitability of the casino operator, and each close associate of the casino operator, as nominated by the Authority from time to time, having regard to whether:**
  - 1.1 the casino operator and each close associate are of good repute, having regard to character, honesty and integrity; and**
  - 1.2 the casino operator and each close associate is of sound and stable financial background; and**
  - 1.7 the casino operator or any close associate of the casino operator has any business association with any person, body or association nominated by the Authority from time to time and who, in the opinion of the Authority, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources; and**
  - 1.8 each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Authority to be associated or connected with the ownership, administration or management of the operations or business of the casino operator or a close associate of the casino operator is a suitable person to act in that capacity.**

### **Background**

These paragraphs of the terms of reference require consideration of the character, honesty and integrity of the casino operator and those individuals and organisations who are closely associated with it, or who are associated with it in a business context.

These matters are critical to any decision as to the continuation of the casino operator's licence.

Prior to the grant of the casino licence, the Authority's task was to investigate the principal companies and persons involved in the application as well as their close associates, as defined in s.13 of the Act, and various business associates of the licence applicant and its close associates.

Following the issue of the casino licence, s.141(2)(c) of the Act requires the Authority to keep under constant review all matters connected with the casino and the activities of the casino operator, persons associated with the casino operator, and persons who are in a position to exercise direct or indirect control over the casino operator or persons associated with the operator.

The Authority also has a responsibility to consider applications for licences which are issued to casino personnel as well as proposals by the casino operator to enter into controlled contracts and notifiable contracts.

The s.31 investigation must address matters occurring over the three year period of the present licence. Accordingly, I have considered the current status of matters dealt with in the Tobias Report together with the consideration by the Authority of matters related to casino special employees and controlled and notifiable contracts.

### **Close Associates**

At the time the casino licence was issued (December 1994) the Authority had identified a number of individuals and organisations who were, in the opinion of the Authority, close associates as defined in s.13 of the Act. The Authority identified 74 individuals and 10 organisations who were close associates or business associates other than controlled or notifiable contractors.

All of the individual close associates have been required by the Authority to apply for and maintain a special employee licence. They are kept under constant review by the Authority to ensure their continued suitability to be associated with the casino operator. The Authority keeps the corporate close associates under constant review.

A list of key close associates is contained at Annexure 7.

### **Business Associates**

In addition to the persons and organisations who are regarded by the Authority to be close associates of Star City, there are a number of persons and organisations who are business associates of the casino operator. They include those individuals or organisations who provide goods or services to the casino as well as others who are connected to the casino operator in a business context.

Under s.37 of the Act, the Authority has the power to object to proposed contracts (known as controlled contracts) between the casino operator and others for the provision of goods or services to the casino. The Act specifically excludes construction contracts from the controlled contract provisions. Accordingly, the Authority has no power to object to those contracts or to require their termination.

In the period between the issue of the casino licence and the commencement of operations at the permanent casino, a total of 331 organisations were investigated in relation to controlled contracts. As part of this process, 768 individuals were investigated and 86 individuals were directed by the Authority, pursuant to s.47 of the Act, to apply for special employee licences because those individuals were considered by the Authority to be in positions whereby they would be able to exert significant influence over casino operations or it was otherwise in the public interest that they be licensed.

At the time of opening the permanent casino, approximately 165 controlled contracts had been entered into by Star City with a value of \$222m. These contracts related to a very wide range of goods and services including gaming equipment, security and surveillance equipment, cleaning, garbage and food and beverage items.

In addition to the power to object to proposed controlled contracts, the Authority also has the power to issue show cause notices as to why a controlled contract should not be terminated. These provisions ensure that the Authority is able to act appropriately

should issues of a probity nature come to its notice as part of its on-going obligations under s.141(2)(b) of the Act to keep persons associated with the casino operator under constant review.

A further responsibility of the Authority relates to those contracts entered into by the casino operator for the provision of goods or services to the casino, but which do not fall into the controlled contracts category (these are known as notifiable contracts).

Notifiable contracts are generally those contracts the consideration for which is less than \$200,000 in any 12 month period. However, contracts which relate to the supply of gaming equipment if the amount payable under the contract is \$5,000 or more, or relate to the supply or maintenance of gaming equipment or relate to the supply of security or surveillance equipment are deemed to be controlled contracts. As at the date of opening of the permanent casino, approximately 730 notifiable contracts had been entered into by the casino operator at approximate value of \$110 million.

The provisions of the Act relating to controlled contracts have caused some operational concern for the Authority and the casino operator. The Authority is only able to investigate a proposed provider of goods or services to the casino following the casino operator determining that it wishes to enter into a contract with that provider.

The investigation period can vary substantially depending upon the circumstances. The consequence is that the casino operator is not able to enter into the proposed contract until the investigation has been completed. While it is entirely appropriate that proposed contractors be investigated, problems arise because the operator inevitably has difficulty in determining its needs for goods and services and when it will be able to receive them.

The consequence is a tendency for the operator to only contract with providers of goods or services who have previously been assessed. This has an adverse effect on the operator's ability to obtain the best goods and services at the most commercial

price. It also has the effect of reducing the opportunity for other potential providers of goods or services to be able to effectively tender for contracts with the casino operator.

The Authority has recently provided a report to the Minister for Gaming and Racing recommending that the Act be amended to provide for a licensing system for providers of goods or services to the casino. This will allow potential providers to be assessed enabling the operator to obtain its needs from a wide range of organisations and individuals. This will have significant commercial advantages for the operator and those who provide goods or services to it.

The regime proposed by the Authority is consistent with the system of licensing service industry providers under the New Jersey casino legislation.

### **Special Employees**

The Act requires persons working in a range of areas in or in relation to the casino to apply for a special employee licence. Any person who is employed or working in the casino in a managerial capacity or who is authorised to make decisions, involving the exercise of his or her discretion, that regulate operations in a casino is required to be licensed.

Likewise, persons employed or working in the casino in any capacity related to the conduct of gaming, movement or counting of money or chips, security or surveillance or the operation, maintenance, construction or repair of gaming equipment are also required to be licensed.

Section 52 of the Act provides that the Authority is not to grant a licence unless satisfied that the applicant is a suitable person to exercise the functions that the proposed licence would authorise. For that purpose, the Authority is to make an assessment of:

- the integrity, responsibility, personal background and financial stability of the applicant, and



- the general reputation of the applicant having regard to character, honesty and integrity, and
- the suitability of the applicant to perform the type of work proposed to be performed by the applicant as a licensee.

The Act specifically provides that each licence application must be referred to the Director of Casino Surveillance in the Department of Gaming and Racing for report and recommendation. The Director is required to investigate and inquire into each application and report to the Authority recommending either that the application be granted or refused.

Pending finalisation of the investigation by the Director and a final determination of a licence application, the Authority is empowered to issue provisional licences. The Authority is also required by the Act to consider applications for the variation of the functions which a person may exercise in the casino pursuant to their licence.

Since the commencement of operations in the temporary casino, the Authority has issued 3,209 special employee licences and 4,323 provisional licences. The Authority has also approved of 2,465 variations to special employee licences which have permitted the licence holders to exercise different functions in connection with the casino. Variations to licences are generally completed within 48 hours.

Although the Authority has issued a large number of licences, it has also refused to issue licences to a range of applicants. At the present time, the Authority has refused to grant a licence to 65 applicants. The reasons for the refusals have varied. Many of these applicants have been involved in criminal activities. Convictions have included sexual assault, drug dealing, gaming offences, fraud, assault, malicious damage, malicious wounding, receiving stolen goods and many lesser offences. These 65 applicants have been convicted of a total of 307 offences. Some have been the subject of apprehended violence orders or bankruptcy.

Prior to the Authority making a final decision to refuse a licence application, it provides each applicant with a minimum of 14 days to make submissions as to why he or she believes they should be granted a licence. A committee is appointed to hear the submissions and a full report is prepared before a decision is made as to whether or not to accept the recommendation by the Director of Casino Surveillance that the application be refused.

The opportunity for applicants to make a submission to the Authority works successfully. Not all applicants avail themselves of the opportunity to attend and provide any further written or oral material. However, the majority do attend and often provide information of considerable assistance. As a result, the Authority has, on occasion, not accepted the recommendation of the Director of Casino Surveillance.

The Authority has cancelled the provisional licences of 15 individuals and has taken disciplinary action against 5 more. Licence cancellations have occurred for various reasons, including the licensee being involved in criminal activity and for failing to notify the Authority of a criminal charge.

The grounds for taking disciplinary action against licensees are as follows:

- that the licence was improperly obtained in that, at the time the licence was granted, there were grounds for declining to grant it; and
- that the licensee has been convicted of an offence against the Act or, whether or not in New South Wales, of an offence punishable on conviction by imprisonment or penal servitude for 3 months or more (whether or not in addition to a fine); and
- that the licensee has contravened a condition of the licence; and
- that the licensee has failed to provide information that he or she is required by this Act to provide or has provided information knowing it to be false or misleading in a material particular; and
- that the licensee has become bankrupt, applied to take the benefit of any law relating to bankrupt or insolvent debtors, has compounded with his or her creditors made an assignment of his or her remuneration for their benefit; and

- that the Authority is, for any reason, of the opinion that the licensee is not a suitable person to be the holder of the licence.

The finalisation of licence applications for a significant number of casino employees was delayed in the past as a result of the reluctance of the applicants to provide essential information to permit the application to be properly investigated. Many applicants failed to provide the necessary information despite the issue of several follow-up letters. However, most have provided the information once advised by the Authority that their provisional licence will be cancelled if the information is not forthcoming.

A number of licence applicants were fine defaulters who paid their fines as part of the licence application process and a number of other applicants were found to have failed to comply with income tax laws. These mostly related to the failure to lodge tax returns.

A small number of licence holders who would have been the subject of disciplinary action by the Authority avoided that process by either resigning or being dismissed by the casino operator. Three of those persons who were casino dealers were involved in “scams” intended to provide financial advantage to family or friends through betting at table games. These persons were also prosecuted for criminal offences.

The names and circumstances of licensees who are the subject of disciplinary action or who avoid disciplinary action through resignation or dismissal are made available by the Authority to casino regulators in other jurisdictions in the event those persons lodge applications for licences.

I am satisfied that the Authority has effectively administered the special employee licensing process.

Unless the Authority maintains a strong stance with respect to the investigation of the probity of special employees, controlled contractors and others, I believe there is a real risk that gaming will not be conducted honestly and the casino may be subject to criminal influence or exploitation .

## **Tobias Report**

In the period following the announcement by the Authority that Star City had been nominated as preferred applicant for the casino licence (6 May 1994) and the date of issue of the licence (14 December 1994) a number of matters relating to the probity of the casino operator group and its associates were raised.

The Authority determined that these matters should be considered by a public inquiry.

Murray Tobias QC, the Authority's then member with special legal qualifications, conducted the inquiry and reported in early December 1994.

Tobias made it clear in his Report (p 11) that his terms of reference did not require him to conduct a full reassessment of the probity of Star City, but required him to deal only with those matters brought forward for consideration at the inquiry.

Although the findings by Tobias were made prior to the Authority's decision to grant Star City a licence, some of the issues dealt with by Tobias and some of the individuals and organisations examined by him, are still associated with the casino operator. Accordingly, as part of the s.31 investigation, I have inquired into the current status of relevant issues referred to by Tobias in order to determine whether there are factors of present relevance.

## **The Leighton Group**

Tobias, and subsequently the Authority, made adverse findings with respect to the probity of the Leighton group and some of its executives.

The issues under consideration related to findings of the 1991 NSW Royal Commission into the Building Industry and the practice which was common in the building industry in the 1980's of winning tenderers for construction contracts paying unsuccessful tenderers their costs of tendering. These costs were in many cases built into the construction cost.

Leighton, through a subsidiary, was part of the Star City consortium. Leighton's interest in the casino project was principally as the developer/constructor of the casino complex. The group held a 5% equity interest in Star City and a 15% interest in the casino management company (Showboat controlled the remaining 85%).

Leighton's involvement in the Building Industry Royal Commission (along with almost every other major constructor in the State and Australia) became an issue after the Authority announced Star City as preferred applicant for the casino licence. Leighton subsequently determined that in the best interests of the casino project it should place its interests in a trust so that there could be no question as to its inability to exercise any influence over the management and operation of the proposed casino.

While the unsuccessful tender fee practice had taken place in the 1980's and the Royal Commission into the Building Industry had been finalised in 1991, it was not until late 1994 that any legal action was instituted against Leighton.

Leighton submitted to the Authority that it had ceased any involvement in the unsuccessful tender fee arrangements before the Royal Commission reported in 1991. In July 1995, LCPL pleaded guilty to two charges of making a false or misleading statement with intent to obtain a financial advantage. These charges had arisen as part of the prosecution of a number of construction companies following the Royal Commission Report in 1991 and related to their activities involving the unsuccessful tender fee practices in the 1980's. LCPL was fined a total of \$2,000 in relation to the two charges referred to above.

Later, in 1995, Leighton Contractors was fined by the Federal Court for breaches of the Trade Practices Act. This action, again, arose as a result of the involvement of the company in the unsuccessful tender fee issue in the 1980's.

Having regard to the appointment of a trustee with no effective voting rights and the fact that Leighton, as building contractor and development manager would have no

opportunity to be involved in any way in the management and operation of the casino, the Authority determined that Leighton could continue to be involved in the casino project through the trust arrangement.

I am satisfied that no evidence has been brought to the Authority's attention that Leighton has been involved in the type of practices identified as inappropriate by the Building Industry Royal Commission since the Royal Commission reported in 1991.

Leighton's interest in the casino project remains in trust and, accordingly, Leighton and its executives continue to be only business associates of the casino operator in circumstances which I am satisfied do not impact adversely on the operator's holding of the casino licence.

During the inquiry, I was approached by Leighton with a request to review its present probity status. In particular, I was asked to review Leighton if the trust was terminated. As the Inquiry can only review the existing position, it was inappropriate for me to deal with the request. Leighton is able to request a review of its position by the Authority at any time.

### **Showboat**

The Showboat group of companies, their directors and senior personnel were the subject of extensive investigation prior to the granting of the casino licence.

A number of allegations concerning Showboat and its business associates were considered by Tobias in the public inquiry held prior to the grant of the licence.

Although Tobias and the Authority were satisfied with the probity of Showboat and its key personnel at the time the licence was issued, Showboat has been the subject of continuing scrutiny by the Authority as required under the Act.

Intensive scrutiny was undertaken as part of the current review. The Authority sent a team of investigators to the United States in July and August 1997 to re-investigate Showboat. This was necessary to ensure that all relevant matters might be

identified in the different American States in which Showboat's business activities have been, or are currently being, undertaken. In all, 93 individuals and 43 organisations in the Showboat Group, or connected with Showboat, were investigated.

I also travelled to the United States towards the conclusion of the investigation team's inquiries to review the work undertaken, assess the Showboat facilities in Atlantic City, Las Vegas and East Chicago and interview particular individuals.

The investigative team visited the following States:-

- Nevada
- New Jersey
- New Hampshire
- Indiana
- Missouri
- Washington

As Showboat no longer operates a casino in Louisiana, it was determined that it would not be necessary to visit that State. However, for completeness I have dealt below with the circumstances of Showboat's departure from Louisiana.

### **Relationship Between Showboat and Resorts International Inc (Resorts)**

In 1983, Showboat entered into a lease agreement with Resorts in relation to a site adjacent to the Showboat Atlantic City Casino/Hotel.

Before the Tobias inquiry it was alleged that Resorts was not of good repute, although it had been licensed to operate a casino in Atlantic City since 1979. It was alleged that the lease arrangements were inappropriate because they gave Resorts the opportunity to exercise significant control over Showboat's casino operations.

Tobias found that Resorts had changed hands twice since the lease was entered into with Showboat and that the lease arrangements were not inappropriate.



Since the Tobias inquiry, the Resorts organisation has again changed hands and is now controlled by Sun International, a South African Casino group which has received a licence to operate casinos in Atlantic City.

I am now informed that the land which is the subject of the lease has been placed for sale and Showboat proposes to purchase the property outright as part of the “first right of refusal” provisions available to Showboat under the lease.

I am satisfied that there are no new issues relating to the Showboat lease arrangements. I am advised that the Authority proposes to conduct a routine examination of the terms of the sale of the leasehold land to Showboat and I consider this is appropriate.

### **The Relationship Between Showboat and Louie Roussel III in Louisiana**

In August 1993, the Showboat Star Partnership (a partnership between Showboat and Louie Roussel III) was granted a riverboat casino licence on Lake Pontchartrain which is near New Orleans, Louisiana.

Following the announcement of Star City as preferred applicant for the Sydney casino licence, a number of allegations were made as to the probity of Roussel III. The allegations were dealt with in detail in the Tobias inquiry and it is not necessary for me to canvass them again here.

One of the key conditions of riverboat licences in and around New Orleans is that the riverboats are required to sail on a regular basis. The Showboat riverboat had not been able to sail except on a few occasions as a result of various difficulties around its berth and on Lake Pontchartrain. Other riverboats had not sailed for various other reasons, mostly related to navigational and related dangers.

In late 1994/early 1995, the New Orleans District Attorney began legal action against the riverboat casinos (including the Showboat riverboat) operating in and around New Orleans in an attempt to force them to leave their berths.

While the litigation relating to the Showboat riverboat was ultimately resolved, Showboat subsequently determined to sever the partnership with Roussel III and sell the riverboat and related facilities. The sale took place during March/April 1995.

Showboat advised the Authority that its decision to terminate its business interests in Louisiana was made for a number of reasons including levels of profitability of the operation, the future outlook for riverboat gaming and the impending development of a large land based casino.

Showboat's decision to leave Louisiana proved correct. The gaming market in and around New Orleans has been under commercial and political pressure and other major casino companies have lost many millions of dollars in this market.

I am satisfied that Showboat's departure from the Louisiana jurisdiction does not reflect adversely on its repute and, in fact, was a sound commercial decision.

### **Showboat - East Chicago**

During the course of the Tobias inquiry, allegations were made by DCL that there was something untoward in the commercial arrangements between Showboat and its business partners in East Chicago, Indiana where Showboat was to operate a riverboat casino.

Various of Showboat's East Chicago partners gave evidence at the Tobias inquiry and he found that there was nothing in Showboat's involvement in East Chicago which would impact upon its good repute.

Since the time of the Tobias inquiry, the Showboat East Chicago riverboat has opened. I visited the complex when in America and interviewed various senior executives. Authority investigators conducted a review of a number of matters with respect to the issue of the casino licence and relevant law enforcement and casino regulatory agencies provided information.

I am satisfied that there is nothing relating to Showboat's riverboat casino operations in East Chicago, Indiana which impacts upon the repute of Showboat.

### **Showboat - Missouri**

In May 1995, Showboat Lemay Inc entered into the Showboat Limited Partnership with a local Missouri company named Futuresouth Inc with the intention of operating a riverboat in Lemay, Missouri.

At the time this partnership arrangement was examined by Authority investigators, the Missouri Gaming Commission had not itself commenced any investigations of the matter and no licence had been issued or development undertaken.

Showboat indicated in discussions with the Authority that it was unsure whether it would proceed with its licence application in Missouri given the apparent volatility of the market in that State.

Following receipt and consideration of a report by the Authority's investigators, the Authority raised various matters with Showboat regarding certain members of the Futuresouth group.

Subsequently, at the Authority's request, Showboat initiated action to sever its relationship with the Futuresouth group and is not now proceeding with the proposed riverboat licence application.

Although the apparent failure of Showboat to anticipate the matter of concern relating to Futuresouth Inc required further consideration, I am satisfied that Showboat's repute is not affected. The severing of the relationship confirms my opinion.

### **Showboat - New Hampshire**

In July 1995 Showboat New Hampshire Inc formed Showboat Rockingham LLC and entered into an agreement with Rockingham Venture Inc in relation to a proposed non-racing gaming project at Rockingham Park racetrack in Salem, New Hampshire.

The purpose of the venture is to refurbish Rockingham Park racetrack and install slot machines. However, gaming of this type has not yet been ratified by the New Hampshire legislature and the venture has not proceeded further at this stage.

I am satisfied that there is nothing relating to Showboat's venture in New Hampshire which impacts on the repute of Showboat.

### **Showboat - Washington DC**

Showboat has no business arrangements in Washington DC. However, various law enforcement and related investigations regarding Showboat were undertaken with national agencies located in Washington DC.

### **Showboat - Washington State**

The Lummi Indian Nation have owned and operated a small casino on their reservation in Washington State for a number of years. It is located between the township of Bellingham and the border of the neighbouring Canadian State of British Columbia.

On 4 February 1997, Showboat LMI Inc, a wholly owned subsidiary of Showboat, entered an agreement with the Lummi Indian Nation concerning the financing, development and operation of a casino on the reservation. This was to replace the current casino.

On 9 June 1997, Showboat announced that it had decided not to proceed with the development of the casino and the venture was terminated.

Showboat states that its reason for withdrawing was a recent decision by the Government of British Columbia to expand casino gaming in that State which would adversely impact the Lummi Indian proposal.

Although the venture had been terminated, it was considered appropriate that the reason for termination and the business relationship between Showboat and the Lummi Indians should be examined. The matter was investigated.

I am satisfied that the relationship between Showboat and the Lummi Indians does not adversely impact on Showboat's reputation.

**John Davis ("Jackie") Gaughan**

John Davis ("Jackie") Gaughan is a non-executive director of a number of Showboat companies including Showboat Australia Pty Ltd which holds an 85% interest in SCM which manages the casino operations.

Gaughan was the subject of extensive consideration by the Authority before it nominated Star City as preferred applicant for the casino licence in May 1994. Gaughan was also the subject of submissions by DCL before Tobias.

The principal issues raised before Tobias related to submissions made by the New Jersey Division of Gaming Enforcement (DGE) about Gaughan in connection with the 1986 application by Showboat to operate a casino in Atlantic City, New Jersey. The DGE has not raised with the New Jersey Casino Control Commission any issues regarding Gaughan's probity since the original 1986 New Jersey licence application process and Gaughan's licence has continually been renewed in New Jersey since that time. Gaughan has also continued to be licensed in Nevada by the Nevada Gaming Commission.

Gaughan was investigated by Louisiana Police and Gaming Regulators at the time Showboat sought and obtained a licence to operate a riverboat in that State. He has also been investigated within the last two years by the Indiana Gaming Commission as part of its probity assessment of Showboat prior to issuing a licence to the company to operate a riverboat in East Chicago, Indiana.

As Gaughan is regarded by the Authority as a close associate of Star City, he has been the subject of continuous assessment since the issue of the casino licence in December 1994. He has been further investigated during the review.

There is a matter, not raised during the course of the Tobias Inquiry, which predates it. Lonnie Zarowitz who held shares with Gaughan in the El Cortez, a casino/hotel in Las Vegas which is still owned substantially by Gaughan, maintains a serious allegation of illegal activity by Gaughan at that casino.

There has been a close relationship between the Zarowitz and Gaughan families over many years although the relationship has now soured. Zarowitz' father, Gerome Zarowitz, who died in 1996, was a bookmaker in Miami when Gaughan was a bookmaker in Nebraska. The two apparently had business dealings commencing in the 1960's. It has been asserted that Zarowitz Snr was associated with US crime families when these groups were involved in casino gaming in Las Vegas many years ago was convicted and gaoled for attempting to influence the outcome of the "superbowl", which is the final series of the US football league competition.

In 1979, Lonnie Zarowitz became a 2% shareholder in Exber Inc, the company which owns the El Cortez. At the time, Zarowitz was also employed at the casino as a gaming shift manager. He has since sold half of his interest to Gaughan.

In 1992, Zarowitz made an allegation to the Nevada Gaming Commission of past-posting activity at the race and sportsbook facility at the El Cortez by Gaughan. The event was alleged to have occurred during 1986.

The allegation by Zarowitz was investigated by the Nevada Gaming Control Board and Zarowitz was interviewed on two occasions. I am not aware of any disciplinary or other action being taken as a result of the Nevada Gaming Control Board Investigation.

I interviewed both Zarowitz and Gaughan when in Las Vegas. Zarowitz claims that he possesses audio-tape evidence which confirms that the illegal activity took place. However, he has refused to provide the tape to US casino regulators and also refused to provide it to me or the Authority's investigators. For his part, Gaughan denies any wrongdoing.

Zarowitz and Gaughan have been in dispute over a range of issues since 1988 when as a shift manager at the El Cortez, Zarowitz was the subject of a sexual harassment complaint by a cocktail waitress.

Zarowitz claims that Gaughan set up the sexual harassment claim (which Gaughan then apparently settled for between US\$25,000-\$30,000) in order to force Zarowitz out of his El Cortez shareholding. Zarowitz' employment was terminated in 1990 on the grounds of wilful misconduct and insubordination .

Zarowitz made other allegations against Gaughan including that Gaughan was an FBI informant, that he had allegedly interfered with Zarowitz' mail and that Gaughan had conducted certain business transactions on less than an arms length basis. He would like to sell his remaining interest in the El Cortez to Gaughan, but says Gaughan has not offered a satisfactory price.

Zarowitz has also alleged that Gaughan has been able to influence the Nevada Gaming Regulators, the local Police and the US Postal Service not to conduct proper investigations into Zarowitz' allegations regarding the 1986 race and sports book issue.

The allegation by Zarowitz is now some 11 years old. Because, at this stage, Zarowitz refuses to provide the evidence which he says he holds, it is difficult to accept his allegation. Gaughan continues to deny any wrongdoing and the relevant casino regulatory and law enforcement agencies have taken no disciplinary or related action.

I find that Gaughan is still suitable to be a close associate of SHC, but that he should be the subject of continued scrutiny by the Authority.

### **Other Investigations**

Toward the end of the inquiry process there has been media speculation that Showboat proposes to sell its interests in the casino to other organisations.

Organisations suggested as purchasers have included SHCH, Tabcorp and other casino operators Mirage and Crown.

At the time of this Report there are no formalised arrangements which would warrant my commencing any specific inquiries. In the event that formalised arrangements are concluded they will have to be considered separately by the Authority using its investigative powers under the relevant sections of the Act.

## **Conclusion**

**Extensive investigations have been undertaken in relation to the suitability of the casino operator, and each close associate of the casino operator nominated by the Authority.**

**Investigations have also taken place in relation to a large number of persons and organisations nominated as business associates of the casino operator or business associates of close associates of the casino operator.**

**I am satisfied that it is open to the Authority to form the opinion that:**

- **the casino operator and each close associate are of good repute, having regard to character, honesty and integrity; and**
- **the casino operator and each close associate is of sound and stable financial background; and**
- **the casino operator and each close associate of the casino operator does not have any business association with any persons, body or association nominated by the Authority from time to time and who, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources; and**
- **each director, partner, trustee, executive officer and secretary and the other officers or persons determined by the Authority to be associated or connected with the ownership, administration or management of the operations or business of the casino operator or a close associate of the casino operator is a suitable person to act in that capacity.**



## CHAPTER 6 - SOCIAL IMPACT

### Terms of Reference

**7. The effect of the casino in relation to the public interest including, but not limited to:**

**7.1 the impact or potential impact of findings by the Authority in relation to the matters referred to in paragraphs 1 to 6 above; and**

**7.2 the impact or potential impact of casino operations on individuals who attend, or who may attend, the casino, and their families; and**

**7.3 the impact or potential impact of the temporary and proposed permanent casino on the public interest having regard to submissions made to the Authority by the public.**

### Background

Gaming and wagering has long been a popular pastime in New South Wales. This interest regularly places the State at the top of all Australian States and Territories in terms of moneys spent per capita on gaming and wagering. NSW is generally regarded by many as the most mature gaming State in Australia.

Gaming machines have been operating in the State for over 40 years and its residents have accessed table games and illegal casinos over a long period. The current level of gaming machines in the State (excluding Star City which has 1500 gaming machines) is as follows:-

• Poker machines	76,006
• Approved amusement devices (video draw poker)	12,221
• Multi-terminal gaming machines	<u>98</u>
Total	88,325

It is only this year that the government agreed to allow registered clubs and the casino to use approved amusement devices and multi-terminal gaming machines. Likewise,

it is only this year that the government has permitted hotels to operate gaming machines other than approved amusement devices.

The introduction of multi-terminal gaming machines now allows sectors of the gaming machine market to introduce interactive electronic casino games such as blackjack and roulette in circumstances where the only difference between the gaming machines and the casino itself is their random electronic operation and the human control provided in the casino.

Prior to the opening of the Sydney Casino, there were a number of inquiries and reviews which considered whether legal casino gaming should be permitted in the State. These and other documents dealing with the social impacts of gaming were reviewed by me and advisers to the Authority during the course of the investigation. They are referred to in the bibliography.

Three attempts at introducing a legal casino in the State were made in the mid to late 1980's. All failed for various reasons.

There was general opposition from church and related social groups to the introduction of a casino. However, it must be recognised that there was already a high incidence of illegal gambling in Sydney, estimated to exceed over 100 venues, before the opening of the temporary casino. Other community groups, notably licensed clubs, objected citing the potential impact of a casino on their revenue base.

The potential for adverse impacts of casino gaming on individuals and families generated a great deal of debate at the time Sir Laurence Street undertook his Inquiry prior to the introduction of the Casino Control Bill into Parliament in 1992. ("Report of the Inquiry into Legal Casino Gaming in New South Wales - Sir Laurence Street, 1991").

The debate was reflected in the Parliament in 1992 when the Casino Control Bill was being considered. The debate continues today and, with the fundamental change to

the availability of gambling facilities in Victoria, South Australia, Tasmania and Queensland has an increasing national perspective.

In NSW, debate about the casino is part of a general concern over the many forms of gambling which are already available. Representatives of church groups and others who I spoke to during the course of the inquiry repeated the concerns which they have previously expressed.

### **Problem Gambling**

Street (1991) indicated that studies of gambling behaviour in Australia and the social and financial costs of problem gambling were limited. He found little comprehensive published data. He also stated that data then existing indicated that the establishment and operation of the proposed two legal casinos in New South Wales would have a deleterious effect on some individuals and families and there would be an increased demand for social and related services. He found that the number of people adversely affected was impossible to state with precision.

Street went on to say that the deficiency of the data makes it impossible to predict with confidence the casino-specific problem gambling consequences, but there was ample evidence (if indeed it was required) to support the conclusion that the incidence of problem gambling in the community increases with the enlargement of the gambling opportunities.

There were a limited number of formal submissions made during the course of my inquiry which addressed the issue of problem gambling in the context of the casino. However, it was decided that a Public Forum would assist in gathering information and stimulate discussion.

Although not limited to problem gambling the Public Forum included several invited speakers who addressed the issue. In addition, a number of interviews were held with individuals and organisations who are involved in research in the area or who deal with the impacts of gambling on individuals and families. It is apparent from the papers and discussion at the Public Forum, and from the various interviews, that there

are significant community problems associated with gambling in all its forms. The problems can have tragic consequences for the individual and his or her family.

It is still the position that there is no data in this State which would enable any satisfactory conclusions to be drawn with respect to the likely extent of social problems related to the operation of the temporary or permanent casino. An update to the baseline research study on the socio-economic impact of gambling in New South Wales (undertaken immediately prior to the opening of the temporary casino) is currently being completed. This report will be available in early 1998 and, accordingly, will compare trends during the period of the temporary casino operations. However, I understand that preliminary figures do not indicate any significant change in the overall socio-economic effect of gambling in New South Wales.

There have, of course, been some well publicised problems affecting individuals who gambled at the temporary casino. It must be accepted that with the greater size and attraction of the permanent casino, the number of these problems will increase. This was made plain to me when I spoke at length to the various organisations which deal with gambling related problems. However, there is nothing in the material before me which would lead me to conclude that the licence should be revoked on these grounds. The problems must not be ignored, but I am satisfied they are not so great that the licence should be withdrawn.

I am also satisfied that Star City is conscious of the potential adverse impacts of the casino. It has implemented a range of initiatives to address the issue. These include:-

- Provision of a free one-off self assessment counselling service for patrons who may have a gambling problem.
- Provision of a 1800 toll free access to a counsellor or details of a range of problem gambling services available.
- Signage strategically placed around the casino premises to assist patrons.
- Brochures and pamphlets containing information on counselling services available and the risks associated with gambling beyond a person's means.

- Provision of information to persons through material printed in different community languages.
- Development of a conduct of controlled and responsible gambling.
- Training for casino staff to assist them to recognise persons who appear to have a problem with gambling.

The Authority is also discussing with Star City the possible introduction of automated signage on each gaming machine in the permanent casino providing information about services available for patrons who may have a gambling problem.

It is obvious that the greater the success for the casino operator, the greater the number of potentially damaging individual circumstances. However, I am satisfied the operator is aware that if problems increase, its business will acquire a tarnished reputation which, in the longer term, will reflect adversely on its commercial success.

#### **Casino Community Benefit Fund (CCBF)**

Action has been taken by the Government to address the issue of problem gambling and the impacts of gambling on the community.

Two percent of gross gaming revenue from casino operations is paid into the Casino Community Benefit Fund. The fund is governed by a trust deed and administered by 11 appointed trustees. The trustees are drawn from the Salvation Army, the Society of St Vincent de Paul, the Uniting Church of Australia, the Ethnic Communities' Council of New South Wales and from the Asian community. There are also 4 trustees who represent various government agencies with relevant expertise in the provision of services or policy programs for persons with gambling problems. The Authority is also represented on the trust - the Authority's Chairperson is Chairperson of the Trustees.

The trust deed details the trustees' functions. These include:-

- recommending to the Minister for Gaming and Racing projects and activities for financing from the Fund;

- establishing guidelines to assist applicants for funding;
- administering the funding application processes.

Reverend Dr Gordon Moyes, one of the trustees of the Fund, spoke on behalf of the Fund at the Public Forum. During his presentation, he indicated that the government and the trustees recognise that where gambling is a legal and sanctioned activity within a community, there will always be a small percentage of the population who will become problem gamblers. They also recognise that gambling can adversely affect individuals, families and the broader community.

The trustees of the Fund appropriate the moneys raised through the levy to:-

- research the social and economic impact of gambling on individuals, families and the general community in New South Wales.
- promote awareness of problem gambling throughout the industry and the community.
- support counselling services for problem gamblers and their families.
- support treatment and rehabilitation services for problem gamblers and their families, and
- fund other community projects and services.

Prior to allocating any funds, the trustees attempted to identify the extent of problem gambling in the community. They found that there was little accurate information available. The trustees commissioned two studies shortly after their appointment in 1995.

The first study was undertaken by the consultancy firm Keys Young and identified those persons, organisations and services which provide assistance to problem gamblers and their families or which conduct research into gambling. The second was completed by the Australian Institute for Gambling Research and examined the socio-economic effects of gambling, referred to under “Problem Gambling” above.

The latter study suggested that more women than men view gambling as an important leisure activity although men spend, on average, twice as much on gambling. It suggested that men and women in country areas are likely to spend more on gambling and spend more frequently than city dwellers.

It also estimated that 0.5% of the adult population in NSW are considered to have serious gambling problems and that a further 0.6% of the adult population were at risk of developing gambling related problems.

The trustees seek to address the negative impact of gambling upon individuals and families through research, counselling, rehabilitation, awareness and educational programs. Further, more general, assistance is provided to community based projects with priority being given to disadvantaged groups.

There has been criticism of some of the funding decisions, particularly those projects which targeted the ethnic community. I understand the trustees were mindful that there were no culturally appropriate services to cater for people from ethnic backgrounds with gambling problems and it was important that a number of basic services be established. This would appear to be an appropriate conclusion.

In 1996, the trustees conducted a Strategic Planning Forum which included service providers, academics, government officials and others. This resulted in the adoption of a Strategic Plan covering the 3 years 1997-1999.

More than 300 applications have now been submitted seeking funding totalling in excess of \$30 million.

Following recommendations from the trustees, the Minister has approved financial assistance for the provision of:-

- a toll free state wide telephone counselling service.

- comprehensive services for problem gamblers, including gambling counselling, financial counselling, family support counselling and legal advice.



- culturally appropriate services directed at the ethnic community.
- education and awareness programs.
- a study to examine the effectiveness of three different treatments in the alleviation of problem gambling.

Between the period commencing on the opening of the temporary casino in September 1995 and 11 December 1997, the Fund had received moneys totalling approximately \$16.1 million.

Expenditure over the same period including grants currently awaiting approval amounts to approximately \$15.8 million. Accordingly, total unallocated funds as at 11 December 1997 were approximately \$0.3 million.

### **Passive Smoking**

An important issue related to casino operations in the Sydney casino, and most others throughout the world, is passive smoking.

The issue has proved difficult for all large entertainment venues. In more recent times, governments have legislated to ban smoking in many “public areas”. I suspect the momentum for further legislation will increase. The link between cigarette smoke and adverse health consequences is now generally accepted.

In the temporary casino, the operator set aside some gaming areas as non-smoking. They proved to be popular. In the last few weeks of the temporary casino, the Workcover Authority notified the casino operator that it must take remedial action to deal with concerns about passive smoking in two areas of the casino complex - one pit area and an area of the “back of house” facilities which had been set aside for those employees who wished to smoke.

The issue was not finally dealt with prior to the closure of the temporary casino, and the matter will have to be addressed in the context of the operation of the permanent

casino. In this respect, I understand Star City gave special attention to the design of the air conditioning systems in an endeavour to ensure that cigarette smoke was adequately controlled.

How successful the design and operation of the air conditioning systems will be is unclear. A full assessment will have to be made now the casino is in operation. I understand that 50% of the main gaming floor has been declared smoke free. Whether this is adequate will also require evaluation.

In the immediate future, the Authority proposes to ensure that air quality within the casino is tested once the air conditioning systems have stabilised. I believe this is appropriate. If the air quality proves unsatisfactory, appropriate remedial steps must be taken.

### **Minors**

Part 6 of the Act provides a comprehensive code for preventing minors from entering the casino.

The Act places specific obligations on the casino operator with significant penalties for permitting minors to enter the casino. If a minor enters the casino, the casino operator is guilty of an offence with a maximum penalty of \$5,500. In addition, if a minor is in the casino and the casino operator does not remove the minor immediately, there is a further penalty of \$5,500. Further, if the casino operator or a casino employee is aware that a person who may reasonably be suspected of being a minor, is attempting to enter the casino, the casino operator or the employee must refuse the person entry to the casino. A failure to comply with this provision also attracts a maximum penalty of \$5,500.

Section 96 of the Act empowers the casino operator to seek substantial proof of age before permitting a person to enter the casino. This includes documentary evidence, such as a driver's licence, passport or other document.

Star City has complied with its statutory obligations with respect to minors in the temporary casino. However I am concerned about the difficulties which may arise in the permanent casino.

The temporary casino had only 3 public entrances which were relatively easy to supervise. The casino operator determined, in conjunction with the Authority, that minors would not be permitted to enter even those parts of the premises designated as restaurants. This applied even if the minor was under the control of a responsible adult.

The permanent casino, which has 6 public entry points, will provide the operator with a much more difficult task. Nevertheless, each entry point to the casino will be monitored by both video surveillance and security officers. There is a very substantial incentive for the casino operator to comply with its obligations. However, I expect that minors, particularly those between 16 and 18 years of age, will attempt to gain entry to the casino.

In addition, restaurants and public facilities in the permanent casino complex have been designed so as to permit minors to enter certain areas without being able to access the gaming areas. This should ensure that families who wish to use the complex for non-gaming activities will be able to do so without, as is the case with many Las Vegas casinos, being required to walk through gaming areas to access accommodation, entertainment or food and beverage outlets.

I am satisfied that adequate measures are in place to deal with attempts by minors to enter the gaming areas of the permanent casino. However the Authority should continue to carefully monitor this aspect of the operation.

### **Impact Upon Pymont/Ultimo Area**

Since 1994, a team of researchers at the University of Technology, Sydney have been engaged in a study of the social and economic impact of the casino on the local Pymont/Ultimo community. The study is a collaborative project involving Tourism

New South Wales, the Registered Clubs Association and Sydney City Council. It is funded by the Australian Research Council.

The study seeks to examine crime levels, both actual and perceived, the effect of the casino and the inter-relationship between the casino and the image of the City of Sydney as a tourist attraction. It is also looking at the effects of the casino on tourism visitation to Sydney and the effects on gambling and entertainment revenues in the club industry.

Some draft papers from this project have been made available to me for consideration. The project will be completed at the end of this year. It would be premature to discuss the results of the study because some of the data has only recently been received. However, Professor Rob Lynch from the University of Technology in a recent speech to a National Association of Gambling Research conference stated that the research indicated that the temporary casino had not contributed to street crime in the general casino precinct. This conclusion generally accords with the Authority's own assessment based on information obtained from the NSW Bureau of Crime Statistics and Research and from information made available during the course of the inquiry.

Pymont 2000 Association (an association of Pymont stakeholders including, property owners, business owners, residents and tenants), expressed initial concerns as to who the operator of the casino would be and its impact on Pymont. However, the association has now indicated that Star City has worked very closely with various groups within Pymont through their planning stages and right up to the present time. I am advised that the casino operator has kept the association fully informed at each stage of the project and has co-operated in planning security, parking, traffic, and other issues which affect the local community. The Pymont retailing area is actually growing and the casino is considered to be the catalyst for that growth.

The Ultimo Precinct Consultative Committee raised concerns about the casino's operations not being contained within the casino site, as they say they were initially assured would be the case. Certain casino administration and staff training is, in fact,

located in Bulwarra Road in a residential area of Ultimo. There have been some difficulties in balancing the residential amenity and the needs of the casino's administration and training centre. However the Committee complimented the casino on appointing appropriate community relations staff to assist with developing an appropriate neighbourhood policy.

The Committee would like to see close monitoring of any growth of escort and prostitution services in the area, and if necessary a prohibition on such establishments similar to the prohibition on pawn shop establishments, in the vicinity of the casino. The Committee would also like to see limits upon the amount of advertising and directional signage in the area so that Ultimo can retain its distinct identity. I believe that both these requests have merit if the casino is to operate in an appropriate urban environment and have included recommendations accordingly.

Beyond these matters, I am satisfied that the local community has found the casino to be a compatible neighbour and is generally pleased with its operation and management.

### **Inducements to Gamble**

Section 76 of the Act makes provision for junkets and inducements. Many casinos provide inducements to gamblers to attract them or, once there, to keep them gambling. Concerns are often raised that these inducements play on a problem gambler's propensity to gamble and assist in the loss of control. There are obviously strong reasons for monitoring the provision of inducements.

The availability of free alcohol as an inducement is dealt with under the Casino Control Regulation. Clause 20 of the regulation states that liquor is not to be provided to a casino patron free of charge (or at a substantial discount) unless the liquor is provided in accordance with any direction given by the Authority.

The casino operator provides free soft drinks, tea and coffee to patrons on the main gaming floor.

The Authority has generally permitted Star City to provide liquor on a complimentary basis only to persons who attend the “high roller” area of the casino and in one other high stakes pit on the main gaming floor designated for this purpose. The Authority has also agreed to permit the casino operator to offer free drinks to patrons on special occasions eg Melbourne Cup functions or where a patron wins a substantial jackpot and the drink is to celebrate that win only.

The casino operator is obliged to ensure that it complies with its obligations regarding the responsible service of alcohol. It is an offence under s.163 of the Act, with a maximum penalty of \$11,000, for the casino operator to permit a person to become intoxicated within the gaming area of the casino or to permit an intoxicated person to gamble in the casino. Likewise, a member of the staff of the casino must not sell or supply liquor to an intoxicated person who is in the gaming area of the casino, or permit an intoxicated person to gamble in the casino. The maximum penalty for non compliance by a member of staff is \$2,200.

I am satisfied that the casino has generally complied with its obligations with respect to the responsible service of alcohol. The circumstances in which liquor is made available to patrons on a complimentary basis do not seem inappropriate.

The Authority has also permitted Star City to promote the premises through the provision of a variety of non liquor based complimentary packages. Star City has implemented a form of club membership amongst its regular patrons which permits those persons to receive bonus prizes and other complimentary benefits based on their use of gaming and other outlets at the casino.

The inducements include gift and coin vouchers, discounted meals in various restaurants, free parking and the ability to earn bonus points for use on the casino premises to purchase a range of goods and services.

This type of promotion proved extremely popular with individuals and with groups of people (often older people) who attended the temporary casino as part of a “day out”.

The available complimentary services are accessed by a wide variety of community groups and individuals who visit the casino. During daylight hours, the casino is popular with groups who visit the casino by bus. Groups come from both the inner and outer metropolitan areas - some come from up to 150 kilometres.

The inducements for “high rollers” and “junket groups” (people who gamble large sums) are dependent upon their level of play. These persons are invited to the “Endeavour Room” (a separate gaming area to the main gaming floor) access to which is limited to cardholders and invited guests. Whilst in the Endeavour Room, patrons receive free food and beverage and other complimentary benefits.

If the patron is a regular player and the patron’s annual turnover is of a significant amount, they may receive free airfares for themselves and their families, food and beverages, accommodation, entertainment and other negotiated benefits including a commission on their turnover.

Although the level of inducements offered to particular market segments appears to be acceptable, there have been a small number of incidents which have been brought to the Authority’s attention which have been the subject of concern. There have been instances, albeit isolated, where the casino operator has continue to send advertising material offering inducements to persons who have been excluded from the casino. In one of these instances the particular person was the subject of a self exclusion order. These issues have been brought to Star City’s attention and action has been taken by it to ensure that the records of those who forward advertising material on behalf of the casino operator are current. The Authority has advised me that it proposes to continue to closely monitor the casino operator’s use of inducements.

Notwithstanding the instances which have occurred regarding the offering of inducements inappropriately and which appear to be unintentional, I am satisfied that the general management of inducements has been appropriate.

## **Exclusion of Patrons**

Section 77 of the Act provides that a person enters and remains in the casino only by licence of the casino operator, with some exceptions. Casino inspectors and members of the Police Service may enter and remain in the casino in order to carry out their statutory and other functions.

Section 79 of the Act empowers the Director of Casino Surveillance or the casino operator to prohibit a person from entering or remaining in the casino. A person who is given an exclusion order may apply to the Authority within 28 days after the order is given to have the order reviewed. Where an exclusion order is given at the direction of the Commissioner of Police there is no right of review. I will discuss the general issue of excluded persons in another section of the Report. There is also a power under section 79(3) of the Act for an exclusion order to be given to a person on that person's own application.

Street (1991) considered the issue of these "self banning" orders and supported the inclusion of the provisions in section 79(3) of the Act so that persons who believe they have a problem with gambling are able to request that action be taken to prevent them from re-entering the casino.

Where a self excluded person approaches the Authority to seek approval to re-enter the casino, the Authority requires the person to satisfy it that the reason for their self exclusion will not recur if they are permitted to re-enter. The process of application and assessment may take up to 6 months to complete which is regarded as an adequate "cooling off" period. The Authority seeks evidence from relevant persons eg medical practitioners, counsellors and lawyers who are aware of the circumstances of the exclusion that the person would, if permitted to re-enter the casino, be capable of acting responsibly. The casino operator handles requests for reviews of its own exclusion orders on a similar basis to the Authority.

During the period of operation of the temporary casino, there were close to 200 individuals who had sought and obtained voluntary exclusion orders. Only a small



number of these individuals approached the Authority to permit them to re-enter the casino. All of those who approached the Authority and who provided the necessary supporting documentation were ultimately permitted to re-enter.

I am satisfied that the procedures relating to the review of self exclusion orders are appropriate and have been adequately administered.

### **Assistance to Patrons**

Section 72 of the Act places a number of obligations on the casino operator to provide assistance to patrons. Section 72(1)(a) of the Act provides that at the request of a patron, a copy of the rules of gaming in respect of any particular game must be made available for inspection.

Star City has complied with this obligation at the temporary casino. In the permanent casino this service will be enhanced substantially and the full rules of each game will be available for perusal at each gaming table through accessing a computer screen.

Star City has complied with s.72(1)(b) of the Act, by making available throughout the temporary and permanent casinos advice and information concerning gaming rules, the mode of payment of winning wagers and other information of assistance to players.

Star City has also made available brochures, approved by the Authority, which summarise the rules of the games. These were available at several locations in the temporary casino and are also available at the permanent facility. The casino operator has also displayed at each gaming table or location for the playing of a game a sign indicating the permissible minimum and maximum wagers for the game at that location.

It is in Star City's commercial interest that adequate information be available for patrons and this would appear to be further assisted through the casino operator's free learn to play programs which teach patrons the basic rules and operation of each table game.

I am satisfied the level of information provided under s.72 of the Act is appropriate.

### **Automatic Teller Machines (ATMs)**

Section 74(3) of the Act provides that it is a condition of a casino licence that an automatic teller machine or any like device is not installed within the boundaries of the casino.

The boundaries of the casino as defined in the Act include all of the gaming areas and a number of areas adjacent to the gaming areas.

There were difficulties in the temporary casino in ensuring that ATMs were kept at a significant distance from gaming areas, the reason being that the facilities were too small and security risks to patrons were significant.

There is no legislative restriction for ATMs to be located in areas of the casino significantly removed from the gaming areas themselves. However, in the permanent casino, the Authority requested that ATMs be located well away from the boundaries of the casino. As a consequence patrons have to travel down escalators and/or steps some distance before they can access the machines. The journey will mean that up to 5 minutes may elapse before a patron who has been losing will be able to access additional funds. This should assist in providing an effective interruption of the urge to continue gambling for any person who may be vulnerable.

I am satisfied that the automatic teller machines are located in appropriate positions within the casino complex.

### **Prohibition on Credit**

Section 75(6) of the Act provides that it is a condition of a casino licence that the casino operator:-

- must not accept a cheque from a person if a cheque previously accepted by the operator from the person has not been met on presentation (unless the amount of the cheque not met was subsequently paid to the operator).
- must bank a cheque accepted by the operator within the period of time required by the Act.
- must not agree to the redemption of a cheque accepted by the operator for the purpose of avoiding compliance with the obligation to bank the cheque within the specified timeframe.

Section 76(6A) requires that cheques must be banked within 20 days if the cheque is drawn on an account maintained at a branch of a bank that is located outside Australia, within 10 working days if the cheque is for \$5,000 or more and is drawn on an account maintained at a branch of a bank that is located in Australia, and in all other cases must be banked within one working day after it is accepted.

The provisions in the Act regarding the prohibition on credit and operation of cheque cashing facilities are similar to those which apply in other Australian casinos.

A number of concerns with the provisions of the Act relating to cheques were raised during the course of the inquiry. Some related to the procedure adopted by the casino operator in relation to the establishment of deposit accounts, others related to compliance with cheque banking obligations.

The Authority has always been concerned about credit matters. It has found that the procedures adopted by the casino operator in assessing individuals before accepting cheques have been adequate, but has advised me that the area will be reviewed and the procedures adopted by the casino operator will be reassessed.

The fact that all gross gaming revenue is the subject of payment of casino duty and the community benefit levy means that the casino operator is discouraged from taking too

many risks that cheques will not be met. This is a significant protection from

inappropriate practices by the operator. I am also aware that at the request of the Authority the Director of Casino Surveillance has closely monitored this area.

I am satisfied that the provisions regarding the prohibition on credit are being implemented and Star City has acted appropriately regarding cheque cashing facilities. However, I endorse the Authority's proposal to review the matter.

### **Conclusion**

**It is obvious that facilities which permit gaming or wagering to take place cannot operate without harming some families and individuals in quite tragic ways. However, very few people have suggested to me that because of this potential, the casino licence should be revoked and the casino closed. A great many people find the casino an exciting and attractive recreation venue and appear to be able to use it in a disciplined and appropriate fashion.**

**I am satisfied that the effect of the casino in relation to:**

- the impact or potential impact in relation to the matters referred to in paragraphs 1-6 of the terms of reference; and**
- the impact or potential impact of casino operations on individuals who attend, or who may attend, the casino, and their families; and**
- the impact or potential impact of the temporary and permanent casinos on the public interest having regard to submissions made by the public,**

**are not such as would warrant the casino licence being revoked on grounds of public interest.**

### **Recommendations**

- There should be close monitoring of air quality in the casino to ensure that it meets relevant technical or agreed standards.**

- **There should be close monitoring of the movement of minors around the casino complex including, in particular, attempts by minors to gain access to gaming areas and relevant liquor licensed areas.**

- **There should be close monitoring of illegal or undesirable activity in Pymont and Ultimo. In particular, any growth of escort and prostitution services in the area should be examined and, if necessary, a prohibition on such establishments, similar to the prohibition on pawn shop establishments, should be implemented. The area must continue to retain an identity distinct from the casino.**
- **The Authority should complete as soon as possible its intended review of the practices and procedures of the casino operator regarding cheque cashing facilities.**

## **CHAPTER 7 - TOURISM, EMPLOYMENT AND ECONOMIC DEVELOPMENT**

### **Terms of Reference**

- 4. The impact of the use of the temporary casino premises as a casino on tourism, employment and economic development generally in Sydney and New South Wales.**
- 5. The likely impact of the use of the proposed permanent casino premises as a casino on tourism, employment and economic development generally in Sydney and New South Wales.**

### **Background**

The introduction of casinos has been supported by some individuals and organisations who have suggested they will stimulate growth in tourism. Professor William R Eadington from the University of Nevada in a paper delivered at the 1995 National Conference of the National Association for Gambling Studies confirmed that one of the emerging trends in recent years has been a transformation in the locations considered appropriate for casinos.

Professor Eadington indicates that urban casinos will have substantially different economic impacts than destination resort casinos. This is primarily because of the nature of the customer. Eadington concludes that in urban casinos most of the customers will be drawn from the local or regional market with less of an “export” effect from spending in the casino and little economic stimulus to metropolitan areas.

Eadington also says that urban casinos can appear to be tremendously successful when gaming revenues and jobs created are measured primarily because they are so close to their customer markets. He concludes that casinos will have the greatest economic impact when they are located in natural tourism areas with existing tourist infrastructure.

The issue was considered by Professor Jan McMillen at the same conference. It is interesting to consider her perspective on urban casinos. McMillen indicates that while the stimulation of tourism has always been a stated policy objective of Australian State



Governments when introducing casinos into their jurisdictions, in

practice, most Australian casinos have derived the bulk of their revenues from local gamblers. She points out that with the rapid expansion of gaming in the early 1990's and the rapid growth of an affluent Asian middle class, the potential of the growing and lucrative international tourist and high roller market has assumed a new importance. Whether this will continue in the immediate future may depend upon the consequence of the current Asian economic crisis, although the Tourism Forecasting Council is still predicting an international tourist growth rate of 6.6%.

### **Tourism and the Sydney Casino**

In its 1993 Report on the Location, Size and Style of the New South Wales Casino, the Authority examined potential visitor profiles for the Sydney casino.

Material made available to the Authority at that time indicated that even for casinos located in principal tourist markets, eg Jupiters at the Gold Coast in Queensland, the local population would represent 75% of casino visits.

The Authority concluded in its Report that local residents and "day trippers" form the majority of patrons who visit Australia's casinos (74% to 92% of visits).

The Authority predicted that visits to the Sydney casino from local residents and day trippers would be between 5.6 million and 7.2 million in 1995, growing to a figure of 6.0 million to 7.5 million in the year 2000.

Based on its analysis of then available information, the Authority projected visitation to a casino in Sydney as follows:-

**POTENTIAL VISITS TO SYDNEY CASINO**  
**VISITS TO CASINO (MILLIONS)**

	<b>1995</b>	<b>2000</b>
International Visitors	0.6 - 1.0	0.9 - 1.1
Domestic Visitors	1.0 - 2.0	1.1 - 2.2
Local Visitors and Day Trippers	5.6 - 7.2	6.0 - 7.5
<b>TOTAL</b>	<b>7.2 - 10.2</b>	<b>8.0 - 11.1</b>

Source: Casino Control Authority Report on Location, Size and style of the New South Wales Casino - January 1993

In its report, the Authority estimated that average casino patronage would be around 24,000 visits per day with around 38,000 on Saturdays. Early, but unreliable, estimations of visitation at the permanent casino indicate that this daily patronage level can be achieved in the short term with the challenge for Star City being its ability to retain a high visitation rate in the longer term.

In its prospectus issued in May 1995, SHCH forecasted that visitation to the casino would be 5.5 million in 1996, 6.6 million in 1997, 7.7 million in 1998 and rising to 11.2 million in 1999.

Estimated visits to the temporary casino for the two year period expiring at the opening of the permanent casino are 4.37 million in 1996 and 5.3 million in 1997.

In its submission to the Authority as part of the s.31 investigation, Star City provided details of surveys conducted of casino visitors.

Of 16,032 first time visitors to the temporary casino, the breakdown of place of residence for those persons was as follows:-

- Overseas 33%
- Interstate 14%
- Other NSW 11%
- Sydney Metropolitan 42%

Perhaps of more importance are the statistics relating to repeat visitors. Of 61,863 repeat visitors to the temporary casino, Star City indicates that the situation was as follows:-

- Overseas 6%
- Interstate 2%
- Other NSW 5%
- Sydney Metropolitan 87%

This information suggests that interstate and overseas visitors have included a visit to the temporary casino staying in Sydney but at this stage the casino has not been able to attract substantial repeat visits. This is perhaps not surprising having regard to the basic nature of the temporary casino and its relative lack of major food and beverage and entertainment facilities.

The International Visitors Survey, 1995 provides further assistance. Its findings are set out in the table following:-

<b>STATE</b>	<b>CASINO</b>	<b>INT'L VISITORS TO STATE</b>	<b>% WHO ATTENDED A CASINO</b>	<b>ESTIMATED NUMBER OF INT'L ATTENDEES</b>
WA	Burswood	449,000	27%	121,338
SA	Adelaide	250,900	17%	42,653
QLD	+Jupiters	1,609,500	22%	354,090
VIC	Crown	922,600	15%	138,390
NSW	Sydney	2,309,000	*3%	69,270
ACT	Casino Canberra	274,500	15%	41,175
NT	Not Available			
TAS	Not Available			

Source: International Visitors Survey, 1995

\* Note: Temporary Sydney Casino opened in September 1995 (ie the last quarter of the year)

+ Note: Figures for 1994, 1995 figures unavailable

These statistics demonstrate that casinos constitute an important part of the tourist attraction base of the destination in which they are located.

As the submission to the inquiry by Tourism New South Wales indicates, casinos attract a significant proportion of visitors from what are considered to be high yield (by virtue of expenditure by day) markets such as Japan, Taiwan, Malaysia, Singapore, Indonesia and other Asian markets. The table below, also drawn from the International Visitors Survey, 1995 demonstrates this point.

<b>COUNTRY OF ORIGIN</b>	<b>% OF MARKET VISITING STATE WHO VISITED BURSWOOD CASINO (WA)</b>	<b>% OF MARKET VISITING STATE WHO VISITED CROWN CASINO (VIC)</b>
Japan	31	12
Hong Kong	32	20
Taiwan	26	10
Thailand	18	29
Korea	27	24
Malaysia	45	35
Singapore	36	17
Indonesia	38	23
Other Asia	22	21

Source: International Visitors Survey, 1995

Tourism New South Wales also advised the inquiry that anecdotal figures provided to it in a draft paper by Professors Lynch and Veal from the University of Technology, Sydney demonstrates the nature of visitation to the temporary Sydney casino and the temporary Melbourne casino. The figures are shown in the below.

<b>1996</b>	<b>% SYDNEY HARBOUR TEMPORARY CASINO</b>	<b>% CROWN TEMPORARY CASINO</b>
Local Residents	76	80
Interstate Visitors	6	15
International Visitors	18	5

Source: Submission to inquiry from Tourism New South Wales

The Tourism Council of Australia submitted that it is clear that casinos have established themselves as a major segment of the Australian tourism industry. The Council was very supportive of the Sydney casino and believes that it has an important role, not only in the Sydney economy, but also in the greater national

economy. The Council also said that many international visitors are particularly interested in the casino which has become one of Sydney's attractions.

Tourism New South Wales released an Attractions Strategy for Greater Sydney in September 1996. The overall aim of the Strategy was to plan for the strengthening of the existing tourist attraction sector and to promote the development of new "anchor" attractions to encourage additional visitation to New South Wales.

The permanent casino would clearly qualify as a tourist attraction under the Strategy. As such it will play a role in helping to define Sydney's image as a destination for visitors and may have an important influence on a visitor's length of stay.

The Tourism Task Force advised that tourism is now a \$53 billion a year industry generating \$14.1 billion in export earnings with this figure expected to reach \$30.6 billion by 2005.

It advised that Australia attracted 3.72 million international visitors in 1995 with this figure expected to reach 4 million in 1996 and approximately 8.8 million by the year 2005.

Sydney, being the gateway to Australia, could expect to entice a proportion of these visitors to the permanent casino. The Tourism Task Force stated that 2.5 million of Australia's total visitor arrivals are from the Asia Pacific region and a visit to a casino is regarded as a major incentive for this market. Whether the casino will be the reason for their visit is not clear. No doubt some will choose Australia as a destination because of the casino - the number is unknown.

The temporary casino in Sydney offered domestic and international tourists only a core gaming facility. While some tourists no doubt included the casino as an item on their visit agenda, it is doubtful that the casino was the catalyst for tourists to visit Sydney and New South Wales.

However, while there are sound arguments that an urban casino will derive a very substantial proportion of its revenue from local patrons, other factors also affect the level of success of the casino and the benefits which might flow to the State from tourism connected with the operation of the casino.

In Sydney, the casino operator has developed the permanent casino complex incorporating a world class showroom and lyric theatre as well as making space available, both currently and proposed for conference and convention facilities. The nature of the complex itself, the mix of food and beverage outlets and theming elements of the gaming areas are distinctive and set the complex apart from other attractions in Sydney as well as other Australian casinos.

While there may be arguments that an urban casino of itself will not attract significant numbers of tourists, it may be argued that the additional facilities contained in the permanent Sydney casino will have a positive impact on the amount of tourism dollars which will flow to the State from the complex. For example, it has been estimated that the staging of world class theatre productions will generate large amounts of additional tourism dollars.

Importantly, the Sydney Casino is located near to the highly successful Darling Harbour Convention and Exhibition facilities, and a number of hotels. It is accepted that convention delegates spend much more on a daily basis than any other visitors to a city. As the casino will become integrated into the Darling Harbour area, over time it will add to tourism in New South Wales.

However, it is essential that the impact of the casino on tourism is appropriately monitored. I have been advised by the Authority that it will be both conducting and funding the conduct of research over the next 3 years to ascertain the impact of the permanent Sydney Casino on tourism, employment and economic development in the State.

At this stage, I am satisfied that the Sydney Casino will have a positive impact on tourism.



## **Employment and Economic Development**

The introduction of the casino to Sydney has, effectively, created a new industry segment as well as flow-on benefits for employment in other industries.

The casino has enormous employment generation capacity both (permanent and casual) for skilled and unskilled workers in a range of positions associated with gaming, food and beverage, entertainment and accommodation. It has also made a major contribution to employment opportunities through the construction and development of the casino.

Between 1200 - 1700 people have been directly employed in the construction of the permanent casino with significant indirect employment also being created.

Star City has provided 2800 jobs in the temporary facility and estimates that there will be 5000 persons employed at the permanent facility.

The casino has also created job opportunities in a range of industries which provide goods and services to the casino, including courier services, hospitality sales, wholesale suppliers of fresh, ready prepared and frozen produce, cleaning services, entertainment and promotions, paper supplies, market research and gaming equipment sales. Many of the businesses that supply goods and services to Star City made submissions to the Authority supporting the continuation of the casino licence.

In submissions made to the Authority, the Labor Council of New South Wales and the Liquor, Hospitality and Miscellaneous Workers' Union supported the casino because of the employment opportunities generated by the construction of both the temporary and permanent casinos and the employment of casino workers.

The Labor Council and the unions believe that both the generation of employment and the conditions under which those workers have been employed have been very positive in terms of training, particularly with regard to young people. The casino has in fact been a very important employer of young people in Sydney.

In its submission, the New South Wales Council of Social Services welcomed the additional employment opportunities being created through the casino development, but indicated that it would like to see that the jobs which are created provide a good career path, have accredited vocation, education and training, be of sufficient hours per week to provide a living wage and targeted to the unemployed.

Mr Richard Warburton, Chairman of Star City, confirmed that Star City will be recruiting some 400 trainees and that the target group for those trainees will be young people and people who have been unemployed for some period of time.

The Media Entertainment & Arts Union sees the casino as being very important because of its theatre facilities. The opening of the 2000 seat Lyric Theatre and the 900 seat Showroom Theatre will provide very significant employment for performers in New South Wales.

Notwithstanding the significant employment generation potential of the casino, there may be adverse effects on employment in other areas which depend upon discretionary expenditure.

The racing industry expressed concern to Street at the proposed introduction of casino gaming. However, Street concluded (para 5.6.7) that the effect would not be as great as feared but recommended, that a TAB agency should be included on the casino premises. The Authority supported the introduction of a TAB in the temporary and permanent casino facilities and, in fact, the facility in the temporary casino, although reasonably small, has seen consistently high turnover.

It is apparent that the casino and racing industries can operate on a synergistic basis. The racing industry has now entered into strategic alliance with Star City which is providing substantial sponsorship and other support for racing.

An expanded TAB facility has been included as part of a major sportsbook area in the permanent casino and early indications are that the successful relationship between the two industry sectors will continue.

The only sector of the racing industry which made a submission to the s.31 investigation was the New South Wales Bloodhorse Breeders' Association. The Association expressed some concern as to the possibility of the casino making inroads into the viability of the thoroughbred racing industry which, the Association submitted, was in a parlous state due, it said, mainly to the burden of excessive taxation.

While I accept the concerns of the Association, those views were expressed in its submission made in January 1997. Since that time, the Government has moved towards the privatisation of the TAB and indications are that concerns about the level of taxation of the racing industry may be alleviated as a result.

I doubt that the casino would adversely affect hotels and would be more likely to provide positive benefits to that industry.

Street (1991) said that the registered club industry representatives who made submissions to him expressed grave concern about the introduction of casino gaming both for themselves and for the community generally (para 5.6.13).

He noted that particular concern was expressed about the proposed Darling Harbour/Pymont casino as the club industry representatives believed that the open-style casino will be like a large club and, unlike the clubs, will not have the restrictions of club membership entry rules.

Following the Street Report, the Parliament amended the Casino Control Bill to require the Minister to establish an inquiry into the likely effect of the availability of gaming machines in a casino on the operations and viability of the registered club and hotel industries.

The club and hotel industries made submissions to Professor Peter Swan who had been appointed by the Government to conduct the inquiry. The main conclusion and

relevant findings of the Swan inquiry were dealt with in the Authority's 1993 Report on the Location, Size and Style of the New South Wales Casino and do not need to be repeated here.

Following the Swan Report, the Government directed the Authority to proceed with the calling of expressions of interest for the establishment and operation of the Sydney casino, but put in place a safety net to address the potential impact of the casino on registered clubs.

Under this safety net, clubs within 10 kilometres of the casino which can prove that their revenue has been adversely affected by the casino are entitled to a rebate on the amount of poker machine taxes paid to the Government.

Although, the temporary casino operated for just over 2 years and there is some anecdotal evidence that some clubs have been adversely affected, I understand that no applications have been made for gaming machine tax concessions.

The Registered Clubs Association (RCA) made a written submission to the inquiry, was represented at the Public Forum and spoke privately with me on some matters.

The RCA submitted that I should recommend that it will only be in the public interest for casino gaming to continue in NSW if the following safeguards are put in place:

- The number of casinos in NSW be limited to one;
- The number of gaming machines and gaming tables in the permanent casino be limited to 1,500 and 200 respectively;
- The restriction on the organisation, promotion or conduct of junkets to the local population remain for low level arrangements and minor complimentary benefits such as a free drink or discounted meal;

- The safety net for registered clubs located within 10 km of the casino remains in place.

The RCA stated that clubs within a 10 km radius of the temporary casino felt an impact during the first 6 months of the operation of the temporary casino. It was suggested that these clubs may have suffered a 15% decline in revenue.

However, the RCA accepted that the casino had not impacted as significantly as was initially anticipated which may have been because of the limitations of the temporary casino's entertainment and dining facilities. The RCA were concerned that the impact of the permanent casino, with its entertainment attractions, diversified food and beverage outlets and fully integrated gaming facilities may be fundamentally different to the temporary casino.

Nevertheless, they conceded that the club movement has prospered during the last 10-15 years during which time they have experienced tremendous revenue growth notwithstanding the introduction of many other forms of gambling.

The strong economic position of the club sector is exemplified by the substantial profits which the major clubs are now receiving as a result of their gaming activities.

A number of issues raised by the RCA relate to matters of Government policy and are outside the terms of reference of the s.31 investigation and my Inquiry. It would be inappropriate for me to comment specifically on them.

From the information available to me, it is clear that the temporary casino has not had the impact on the club movement which was originally feared by the RCA. Whether the permanent casino will have a significant impact on clubs in general, or on individual clubs within the vicinity of the casino, is difficult to determine at this time given the structural changes emerging in the club movement together with changes in Government policies. However, from the available evidence, I doubt whether the impact of the permanent casino will be as great as that anticipated by the RCA.

The Retail Traders' Association made a speaker available to assist me as part of the Public Forum.

Retailers have experienced difficult trading conditions in recent years. Nowadays they are not just competing with each other but are also competing with other areas of discretionary spending. Consequently, the retail sector sees gambling as a major competitor for the discretionary spending of consumers. Retailers are concerned about gambling generally not just at the casino, but believe that the casino exacerbates an existing problem.

Over the past 20 years, there has been a major shift in spending away from direct product purchases towards entertainment and services. Retailers increasingly see gambling as one of the major components of those services.

Retailing plays an important role in the New South Wales economy. There are approximately 60,000 retail establishments turning over in excess of \$44 billion per annum and contributing approximately 7.4% of the State's gross product.

In addition, the industry directly employs approximately 395,000 people, which represents more than 14% of the State's work force. It has been suggested that 50% of young people get their first job in retailing and that the industry is the largest employer of women. It is also the largest employer in the small business sector with over 95% of retailing businesses employing less than 20 people. It is thought that retailing will be a major contributor to new jobs over the next decade and that more than 20% of all new jobs created will be in retailing.

The retail industry also has important links to other key elements of the New South Wales economy. The agricultural, manufacturing, property and finance sectors are all industries that are directly linked to retailing.

Retailers are concerned that the increase in gambling in general is reaching unreasonable levels. It has been suggested that in excess of \$900 per year per capita is spent on gambling in New South Wales. Retailers question whether the multiplier

effect of that expenditure, and thus its general community benefit, may be greater if the amount was spent in other areas, such as retailing.

However, retailers acknowledge that it is difficult to identify a direct link between gambling and retailing. The Victorian Casino and Gaming Authority commissioned a study which could not conclude that there is a direct link between gambling and any decline in retail spending. The study (“The Effect of Gambling on Employment in Victoria - August 1997”) suggested that the increase in gambling had been funded out of savings rather than from a redirection of disposable income from retailing to gambling.

In Victoria, many of the problems that have been experienced in the community and by local businesses are not only due to the casino. Victoria experienced the dual impact of the simultaneous introduction of the temporary casino and poker machines in other venues. The increase in gambling opportunities in New South Wales has been gradual and its impacts more readily absorbed.

Retailers are concerned about the growth in access to gambling throughout NSW. They believe that the introduction of poker machines into hotels and increased gambling facilities in clubs have been more detrimental to the retail industry and the NSW economy than the casino. They see the casino as providing a significant cultural shift in the way people perceive gambling which could ultimately be detrimental.

Many also believe that the casino will have a direct impact because it will take a percentage of disposable income out of the NSW economy and shift consumer decisions away from retailing establishments to the casino.

They also believe the casino will become a destination in its own right, drawing people away from specific retail precincts, especially the CBD. Retailers expect to be adversely affected by the retail components attached to the casino particularly the high quality retail establishments. They also believe that the car parking opportunities at

the casino will draw people in from regional shopping centres. It remains to be seen whether any of these concerns will be realised as a consequence of the permanent facility.

The retail section of the casino will not be as extensive as that of Crown Casino in Melbourne and will not be so much at the high quality end of the market. I doubt whether it will have the impact of Crown.

It has been suggested that some 40% of tourism expenditure is in the retail sector. Retailers are apparently coming to the view that tourism provides an opportunity in an otherwise very flat marketplace. However, it is unclear how the casino will benefit mainstream retailing in its tourism impact.

From the supplier's point of view, the casino has had a very positive and direct impact. It has also benefited those businesses which feed the suppliers.

It is useful to collate the information which records the economic impact flowing from the temporary and the permanent casinos.



**EMPLOYMENT**

Casino Employees	Temporary Casino	2,800
	Permanent Casino	5,000

**EMPLOYMENT**

Construction and Support	Up to	2,000
Flow on	Up to	3,800

<b>CONSTRUCTION COSTS</b>	Temporary Casino est.	\$ 82,500,000
(including FF & E)	Permanent Casino est.	<u>\$765,000,000</u>
		\$847,500,000

<b>REVENUE TO NSW</b>	<b>1996/97</b>	<b>to 30 June 97</b>
Casino Licence	-	\$376,000,000
Casino Duty	\$ 78,550,000	\$136,540,000
Liquor Licence Fees	\$ 360,000	\$ 780,000
Community Benefit Fund	\$ 7,240,000	\$ 12,859,000
Employee Licence Fees & Controlled Contract Fees	\$ 402,000	<u>\$ 1,040,000</u>
		\$527,219,000

<b>CONTRACT VALUE</b>	<b>to 30 June 97</b>
162 Controlled Contracts	\$222,354,369
726 Notifiable Contracts	<u>\$109,688,878</u>
	\$332,043,247

<b>CASINO PATRON VISITS</b>	<b>1996/97</b>	<b>to 30 June 97</b>
	5.0 million	8.5 million

\* Early October 1997 saw the  
10,000,000 patron visit mark passed

The operation of the permanent casino will, in my view, add significantly to Sydney and Darling Harbour as a result of the mix of activities available in the casino

complex. The permanent casino should become an integral component of the conference and convention market as well as the arts and cultural facilities available in Sydney. These are positive benefits.

The Authority has proposed as part of its research plan to monitor the impact of the permanent casino on the gaming and wagering industries (including clubs) and the retail industry over the next 3 years. This is a significant proposal and will enable some objective data to be collected from which any necessary decisions to redress structural issues may be determined. The next s.31 investigation will be able to assess the impacts of the permanent casino.

### **Conclusion**

**I am satisfied that the temporary casino has added tourism, employment and economic benefits to both Sydney and the State of New South Wales. While the tourism benefits from temporary casino operations may not be as great as predicted, the creation of substantial employment on a full and part time basis and the resultant economic benefits to the State have been significant.**

**I am also satisfied that the impact of the permanent casino on tourism, employment and economic development in Sydney and New South Wales may be substantial. In this context, I am satisfied that the possible adverse impact of the permanent casino on other gaming and wagering industry sectors and on the retail or related industries may not be substantial and may benefit some sectors.**

## **CHAPTER 8 - THE CASINO AND CRIME**

### **Background**

The issue of crime and casino gaming is difficult. In this chapter which addresses a number of paragraphs of the terms of reference, I deal with those matters which have resulted in exclusion orders and/or prosecutions for offences committed in the casino as well as a number of matters raised by the media. Generally the publicity given to these matters exaggerates their significance in the overall operation. They are important, but must be placed in an appropriate perspective, particularly having regard to the number of people who visit the casino on any given day.

### **Local Crime**

As Street (1991) noted, it is frequently asserted that casinos will lead to an increase in offences such as theft, assault, vandalism and offensive behaviour in their immediate vicinity. At the time of his Report, Street indicated (para 4.5.7) that the research conducted for his Inquiry indicated that there is no conclusive link between the presence of casinos and street crime.

Street looked at allegations regarding local crime in Atlantic City and concluded that studies completed around the time of his Inquiry (1991) cast doubt on the data used to justify a link. He also concluded that there did not appear to be firm evidence to demonstrate an increase in casino related street crime in Australia where casinos existed.

Information made available to the Authority by the NSW Bureau of Crime Statistics and Research indicates that local crime in the general vicinity of the Central Business District and the temporary casino did not increase significantly during the time the temporary casino was operating.

Justice Xavier Connor, in his 1991 Report relating to the introduction of legal casino gaming in Victoria, suggested that it may be that the higher numbers of security staff and government inspectors in fact makes a casino a safe environment.

This issue has also been dealt with by Professor Rob Lynch from the University of Technology, Sydney in a paper he presented to the recent Annual Conference of the National association of Gambling Studies. He is of the view that the temporary casino did not contribute to street crime in the general casino precinct.

The permanent casino development is much larger than the temporary casino and may create different problems. However, it has a correspondingly larger security group patrolling its premises and has video camera surveillance of internal and external areas.

Procedures are also in place with local and regional police to deal with any undesirable activity in or around the casino or local precinct.

The issue should be monitored by the Authority, but I am satisfied that the impact of the casino on local crime is low.

### **Illegal and Undesirable Activity in the Casino**

Between the date of opening of the temporary casino on 13 September 1995, and its closure on 26 November 1997, a total of 976 persons had been excluded.

A number of these exclusion orders have since been revoked by the operator and, in some instances, the Authority. In order to understand the circumstances which have given rise to the exclusions, I have discussed some of the principal activities which have led to orders being made.

Patrons leaving children unattended around the precincts of the temporary casino have led to exclusions. A direction was given to the Authority by the Government at the time of the opening of the temporary casino to require the casino operator to ensure that any person who is responsible for a child and who leaves that child unattended\_and at risk in the vicinity of the casino, or even in the general Pymont peninsula area, must be excluded from the casino.

At the time of closure of the temporary casino, a total of 162 individuals had been excluded by the casino operator acting under the direction regarding children.

This appears to be a large number. However, the casino has tended to take a hard line and has sometimes excluded persons notwithstanding that there may not have been clear evidence that the children were at risk. Some persons were excluded for leaving children of teenage years outside the casino during daylight hours and a large number were excluded for leaving children unattended (but not necessarily at risk) for very short periods during daylight hours.

It also became apparent that a significant number of persons who were excluded were not aware that they could be excluded for leaving children unattended for very short periods and they may not have done so had they been aware of the consequences.

There were, however, a small number of instances where children were left unattended and at risk in the vicinity of the casino in evening hours and sometimes quite late at night. This is a matter of great concern but I am satisfied that appropriate action was taken by the casino operator in dealing with these persons.

The opening of the permanent casino will place greater pressure on the casino operator to address the issue of unattended children. The nature of the permanent casino complex with its entertainment facilities and hotel and other facilities, including food and beverage outlets outside the casino proper, will result in a significantly larger number of children being brought to the complex with a greater risk that some will be left unattended. Although Star City will have to ensure that it does not perform its obligations in a way which results in the exclusion of legitimate visitors to the complex it will have a more difficult task in assessing whether or not children have been left unattended and at risk. I understand that the Authority and the operator are addressing this issue through the examination of security procedures to assess their appropriateness and applicability to the permanent casino complex.

There have been 2 instances where casino employees have gambled in the casino contrary to s.86 of the Act and there have been 3 instances where casino dealers have provided a benefit to patrons known or related to them.

Over 200 persons have been issued further exclusion orders when they have re-entered the casino after receiving initial exclusion orders. Many of these persons have been prosecuted and fined.

A similar number of persons have been excluded for gaming related offences including cheating, which is an offence under s.87 of the Act with a maximum penalty of \$11,000 or imprisonment for 2 years or both, or for offences involving the theft of chips either from the casino or from other patrons. Many of these persons have also been prosecuted.

Over 30 exclusion orders have been issued to persons who have been found begging in the casino and a number have been excluded, or refused entry, on account of intoxication or offensive behaviour. A number of these incidents have involved assaults by patrons on casino security officers.

Importantly, there have only been a very small number of recorded exclusions in relation to persons alleged to be soliciting for the purposes of prostitution and there has also been a small number of more serious offences such as stealing from patrons or the taking or possession of drugs.

One issue which requires special mention relates to exclusion orders directed to be issued by the Commissioner of Police. To date, there have been 30 such orders. Two of these were issued some time ago and related to minor illegal activities while 28 exclusion orders were issued in one block following media reports that loan sharking was taking place in connection with the casino.

I deal with the loan sharking issue in a separate section of this chapter. However, it is appropriate to address here the issue relating to the power of the Commissioner of Police to direct the casino operator to exclude persons from the casino.

On 20 January 1997, the Police Commissioner issued a Notice to the Police Service advising that a Standing Committee had been formed through the State Intelligence Group to advise the Commissioner of persons it believes should be excluded from the casino.

The Notice advised members of the Police Service that if they wished to nominate a person for consideration of exclusion from the casino, they are required to provide an Intelligence Report to the Standing Committee which would evaluate the matter. The Commissioner advised that the procedure was a State-wide opportunity for all police to participate regardless of duty type or location.

The Commissioner's Notice gave the following examples of persons who may be identified as appropriate for exclusion:-

- The person has a criminal history of relevant offences.
- Intelligence or other evidence suggests the reputation of the person warrants exclusion from the casino.
- The person is suspected of using the facilities of the casino for an unlawful purpose eg, money laundering, criminal association, supply or use of prohibited drugs etc.
- The person has a gambling problem sufficient to warrant exclusion.

While it is entirely appropriate that the Commissioner exercise his powers in those circumstances where he considers it necessary to do so, it is a matter of concern that from the information available to me, some of the persons excluded at the direction of the Commissioner are now visiting casinos in Queensland and Victoria. I am advised that the Authority and the Commissioner of Police have written to casino regulators and police services in other States advising them of the persons excluded at the direction of the NSW Commissioner of Police, but to date no action has been taken by those jurisdictions to issue similar exclusions. This is a matter which needs to be addressed and I recommend that the issue be taken up with the relevant Ministers in those jurisdictions.

A small number of people were excluded from the casino by the casino operator on the basis that they were supposedly involved in card counting. Card counting is a procedure used by persons who are very experienced at certain casino games such as blackjack. In effect, it involves watching the number and type of cards which are dealt from a dealing shoe and attempting to determine the likelihood of certain cards being dealt as play progresses. A further component relates to attempting to determine where those cards will reappear after the decks of cards have been shuffled. However, this is more difficult with the use of automatic shuffling devices.

The Authority does not regard attempts by patrons acting alone and unaided by electronic or other devices to count cards as something which should result in them being excluded from the casino. Card counting is difficult where automatic shuffling devices are used and the rules of the games permit the casino operator to recommence shuffling before the end of play.

In New Jersey, upon whose legislation the Act is modelled, card counting is not considered illegal and this position is endorsed by the Authority. However, there have been instances in the temporary casino where groups of persons have attempted to control play at particular tables so as to assist individual players to gain special financial advantages. The Authority has advised me that it has no objection to those persons being excluded.

I am advised that the Authority will be discussing the card counting issue with the casino operator in more detail in the context of the operation of the permanent casino.

Given that there were over 10 million patron visits to the temporary casino, the number of persons excluded for illegal or undesirable activity is very small in percentage terms and does not, in my view, reflect adversely on the public interest in permitting casino operations to continue.



## **Money Laundering**

This issue was examined by Street in 1991. It has also been looked at by other bodies, particularly the National Crime Authority (NCA). Money laundering is defined under the Vienna Convention (article (3)(1)(b) of the United Nations Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances), as the conversion or transfer of property for the purpose of concealing or disguising the illicit origin of the property.

Street (1991) said that despite a widespread belief expressed in submissions to his inquiry and elsewhere he was unable to find evidence that money laundering can, and regularly does, occur at casinos. Further, he indicated that informed opinion confirmed his finding. He also said that procedures used by Australian casinos to detect and prevent money laundering were not well known or understood by critics, or even many patrons (para 6.3.7).

This is consistent with findings by the Queensland Criminal Justice Commission in its 1991 Report on SP Bookmaking and related criminal activities and a Report by the NCA in December 1991.

Interestingly, the published material has referred to alleged sightings of known crime figures in casinos in circumstances which suggest that those persons are using the facility as entertainment rather than for the purpose of laundering money in the generally understood sense of that term.

Since these reports were published, the Australian Transaction Reports and Analysis Centre (AUSTRAC) has regularly examined the issue of money laundering. Under financial transaction reporting legislation cash dealers, including casinos, are required to report all cash transactions above \$10,000 and are also required to report suspect transactions below that amount.

The AUSTRAC 1996/97 Annual Report indicates that during the reporting year, 5,772 suspect transaction reports were received by AUSTRAC. Of the 5,772 reports, 4,351 suspect transaction reports were made by banks with casinos being at the lowest

level of reporting. This does not mean that casinos have been reluctant to make reports. The Authority has been advised by AUSTRAC that it is satisfied with the level of reporting of suspect transactions by casinos in Australia, including the Sydney casino.

The 1996/97 AUSTRAC Annual Report also includes commentary (at pp 61-63) as to an evaluation of Australia's international efforts to combat money laundering. The Report indicates that Australia has played an active role in the efforts of the Financial Action Task Force on Money Laundering established by the G-7 Group of Nations and that the assessment of Australia's compliance with its international obligations concluded that "Australia can pride itself on a well balanced, comprehensive and in many ways exemplary system, and must be congratulated accordingly".

Interestingly, no significant new methods of money laundering have been identified by Financial Action Task Force member countries and there is nothing in the AUSTRAC Annual Report to suggest that there is any significant issue in relation to allegations of money laundering in casinos.

Although it is possible that money laundering occurs in casinos, I am satisfied that it is likely to be quite limited, particularly because of the ability of casino management, casino regulators and law enforcement agencies to track the movement of patrons, cash and chips within a casino.

I have little doubt that moneys which have been illegally obtained, perhaps without payment of tax are sometimes wagered at the casino. However, I am also satisfied that those persons who seek to dispose of any significant sum of money in this way will come under the notice of casino regulators and law enforcement agencies, including the Australian Taxation Office.

New South Wales has legislated the Confiscation of Proceeds of Crime Act 1989 which makes money laundering an offence and empowers the State Crime Commission to take action against an individual by way of seizing and subsequently confiscating assets in circumstances where the person is unable to account for them.

This is the most effective legislative weapon available in Australia against the money launderer.

Other State and Federal law enforcement agencies also have various powers under a range of legislation to act where they believe that persons in the casino may be gambling with moneys which are the proceeds of criminal activity.

I am satisfied that money laundering is not a significant problem at the Sydney casino and that persons who may gamble at the casino with the proceeds of crime will be effectively dealt with by the relevant law enforcement agencies.

However, there is one issue which I believe requires action. Under Commonwealth legislation neither AUSTRAC nor casino operators are permitted to provide details of information regarding cash transactions and suspect transactions to casino regulatory agencies. It is my view that if this position were reversed there would be a number of benefits for all concerned.

The casino regulatory agencies are well placed to examine cash transactions and to provide appropriate advice to relevant law enforcement agencies in order to facilitate the activities of those agencies. In addition, the availability of the information would be of significant benefit to casino regulators who are charged with the obligation to keep casinos free from criminal influence or exploitation. Without access to all necessary information, casino regulators are not able to undertake their functions as effectively as they might otherwise be able to.

In these circumstances I recommend that the Commonwealth Government be approached to amend the relevant legislation in order to permit casino regulatory agencies to have access to cash transaction information flowing from the particular casinos that each regulates.

### **Undesirables at the Casino**

As I have previously indicated, the NSW Commissioner of Police has used his statutory power to direct the casino operator to exclude 30 persons from the casino in

circumstances where the Commissioner considered it to be inappropriate for those persons to be permitted to enter or gamble on the premises.

It is also important to make clear that with respect to 28 of the 30 individuals who were excluded at the same time, not all were known as regular patrons, or patrons at all. Only a small number of the 28 were known to have frequented the casino on a regular basis.

The Government, on the recommendation of the Authority, has introduced legislation which will permit regulations to be made extending the power of the Commissioner of Police to direct the casino operator to exclude persons from other parts of the casino complex under the casino operator's control. This is a sensible approach and should add significantly to the ability of the Commissioner of Police to exercise his functions.

There must be a strict enforcement of the regulatory code governing casino operations and appropriate liaison with law enforcement agencies to ensure that there is adequate protection against the risk of undesirable elements compromising the integrity of those operations. Sections 148 and 149 of the Act clearly contemplates that the Authority may assist law enforcement agencies to undertake their functions by obtaining information on their behalf regarding casino related matters.

I am satisfied that the Authority has in place the necessary arrangements to facilitate the provision of relevant information to law enforcement agencies and for those agencies to assist the Authority by taking appropriate action in accordance with the relevant powers available to them.

### **Casino Chips**

The possibility of casino chips being used as currency has gained considerable media attention. There has been a recent criminal investigation which uncovered approximately \$70,000 in chips obtained from the Crown Casino and there has also been some unsubstantiated reports that there is a significant chip movement in and out of the country.

The issue was the subject of discussion at a recent meeting of law enforcement and casino regulatory agencies held at the Authority's premises. While there appears to be evidence of occasions when casino chips (not necessarily those from the Sydney casino) are taken into or out of Australia, no evidence has been brought to my notice which would lead me to the conclusion that this is done for the purpose of money laundering.

The current view of relevant agencies is that the relatively small number of chips involved does not suggest that chips are used as "underground" currency, although it is possible that small numbers of chips may be used to barter for goods or services in the general community. There is little purpose in moving chips when it appears relatively easy to move money in various situations.

The Authority monitors the number and value of unredeemed chips on a regular basis. By far the majority of unredeemed chips fall into the value categories of 50 cents, \$1, \$2.50 and \$5. These denominations account for between 90% and 95% of unredeemed chips at any one time. I understand that there are chips to the value of hundreds of thousands of dollars which have been "souvenired" from the first day of opening of the temporary casino and I suspect that more will be souvenired from the permanent facility.

Indeed, even a large number of chips with no value were souvenired during "soft opening" activities in the lead-up to the commencement of gaming at both the temporary and permanent casinos.

There is anecdotal evidence that casino patrons sometimes use \$1,000 and \$5,000 chips as part of a jewellery piece. I also understand that some patrons who are large and regular gamblers from other countries may leave Australia on occasion with small numbers of high value chips intending to return within a short time as part of their regular visits to Australian casinos. Although most members of the community would not be likely to leave the casino and retain thousands of dollars worth of chips, I am satisfied that there are some patrons who are large gamblers who do, and who do so without any intent to use those chips as payment for other activities.

It is appropriate to reflect on the media discussion of the amounts of money gambled by some people at casinos. There appears to be some confusion about the annual turnover or in industry parlance “handle” of a player and the moneys actually lost. Certain media reports refer to patrons losing \$20m to \$50m at casinos. These sorts of figures generally relate to the total value of all bets placed by a person over a 12 month period. It does not mean that the person has actually lost this sum. There would only be a small number of gamblers in the world with the capacity to lose the millions of dollars reported by the media. It is unrealistic to suggest that such losses regularly occur at the Sydney casino.

It is possible that a patron could commence gambling with an amount of \$50,000 to \$100,000 and turn over those same moneys many times in a 12 month period. The turnover may be \$20 million but the win or loss quite small.

I understand it is feasible to insert a device in high denomination chips which would trigger a sensor if a person attempted to leave the casino with the chips. A submission was received from one organisation indicating that it had the technology which would achieve this. However, I also understand it would also be possible for the mischievous to develop devices which would confuse or prevent sensor systems from identifying chips through electronic or other signals.

Monitoring would create significant practical problems if it was attempted. There are a large number of entry and exit points to the Sydney Casino for both patrons, hotel and other guests and staff, as well as areas which open on to public thoroughfares. While electronic monitoring of all of these entry and exit points is possible it would present difficulties in an operational context. Many exits are broad allowing large numbers of patrons to enter and leave the casino at any one time. It is possible that casino security personnel would have to apprehend and search many patrons in an attempt to ascertain which one was carrying the encoded chips. There are also difficulties with patrons wishing to retain control of chips while they move throughout the complex to various food and beverage outlets, functions and hotel rooms.

After consideration of all of the evidence, in my view, there is no present need to implement a device to control chip movements. However, it is important that the Authority monitor the situation closely and review it within the first 12 months of operation of the permanent casino. If evidence of a significant problem emerges it should be dealt with expeditiously. If action is taken it should be on a national basis so that the problem, if it exists, is not just exported to another Australasian jurisdiction. I recommend that the matter should be the subject of consideration by all Australasian casino regulators at their next annual conference.

### **Loan Sharking**

The loan sharking issue was raised in the media at the time of criminal trials relating to violence in the Kings Cross area of Sydney involving a particular ethnic group.

Loan sharking generally refers to the lending of moneys at exorbitant interest rates, mostly calculated on a daily basis. It is not surprising that the borrowers are often people without adequate recourse to funds to repay the loan. Although it is not a criminal offence, loan sharking is commonly associated with criminal activity and force is often used against those who are not able to meet repayments. It is very difficult to uncover and deal with because of the reluctance of the “victims” to come forward.

On any view, loan sharking is an undesirable activity and whether linked to physical violence or merely exploiting individual gamblers, it should not occur in association with the casino.

Responsibility for dealing with loan sharking and its associated criminal activities lies with the Police Service and related law enforcement agencies who have the necessary expertise and powers to address the problem. Where necessary, procedural changes to casino operations which are the Authority’s responsibility may be made. I understand that 2 of the persons excluded at the direction of the Commissioner as part of the group of 28 referred to earlier, were allegedly involved in loan sharking activities.

The exclusion of patrons from the casino at the Commissioner's direction is a powerful device which was inserted in the legislation specifically to permit the Commissioner to act where he was concerned about criminal activity in or around the casino. The Authority was not given the power to exclude persons from the casino. Instead, the Authority is the body to whom a person may appeal in order to have an exclusion order issued by the Director of Casino Surveillance or by the casino operator reviewed.

### **Conclusion**

**I am satisfied that there are appropriate measures in place to co-ordinate law enforcement and casino operations so that loan sharking or other undesirable activity is discouraged. However, if the Authority is to be able to properly exercise its co-ordinating role, it is essential that the relevant law enforcement and related agencies are vigilant in exercising their responsibilities and expeditiously bring matters to the Authority's attention. This matter should be carefully monitored by the Authority.**

### **Recommendations**

- **That the Government approach Governments in other Australian jurisdictions with a view to obtaining consistency in the exclusion of undesirable persons from casinos.**
- **That the Government approach the Commonwealth Government and request the amendment of the Financial Transaction Reports Act 1988 to permit casino regulators to obtain information regarding cash transaction reports relating to casinos.**
- **That Australasian Casino Regulators consider whether or not action needs to be taken in connection with high value casino chips being taken out of casinos.**



## **CHAPTER 9 - FUTURE REGULATION OF THE CASINO**

During the course of the inquiry, I have had the opportunity to observe and assess the relationship between the Casino Control Authority, the Director of Casino Surveillance and the casino operator.

The Authority has been given wide powers and discretions which are clearly defined in the Act. These functions enable it to set matters of policy, administration, direction and discipline.

The Director of Casino Surveillance exercises an independent statutory function by supervising and inspecting the operations of the casino and the conduct of gaming in it to ensure that the casino operator and casino employees comply with their obligations under the Act and the policies and procedures set by the Authority. The Director also provides a support role to the Authority by assisting it in such matters as the Authority may request and in reporting to the Authority on applications for licences and the need for disciplinary action to be taken where necessary.

For administrative purposes, the Director and his inspectors are presently attached to the Department of Gaming and Racing and must rely on that Department for administrative support and budgetary resources. Accordingly, the Director's operations are subject to the overriding requirements of the Department. Although this situation may be appropriate for normal public sector operations, in my view it does not sit well with the intended independent operation of the Authority and the Director under the Act.

The current administrative arrangements are in place notwithstanding that section 145 of the Casino Control Act provides that the Authority may employ such staff as may be required to enable it to exercise its functions and the Director to exercise his or her functions.

Staff of the Authority are not subject to the provisions of the Public Sector Management Act 1988 and the Authority is empowered to fix their salaries, wages and other conditions of employment. This is a sensible approach given that the casino operates 24 hours a day for each day of the year. The same flexibility should also apply to the Director and the Director's staff. There are also various management information systems and information available to the Authority and not the Director.

While the Authority and the Director exercise clearly defined and separate statutory functions, many of the people that I spoke to in the course of the inquiry were unaware of the separation of the administrative and related functions of the Authority and the Director. They assume that the Director and his inspectors formed part of the organisational structure of the Authority.

Senior staff in the employ of the casino operator have advised me that the administrative separation of the Authority and the Director created unnecessary operational difficulties and expressed concern that this situation adversely and unnecessarily affected the commercial operations of the casino. I understand that the administrative separation has also created some concern and confusion with law enforcement agencies and others with whom the Authority and the Director must interact. Those agencies would prefer to see the Director and inspectors attached to the Authority for administrative purposes.

I can see no good reason for continuing the administrative separation between the Authority and the Director, particularly now that the permanent casino is operating with its expanded operational and regulatory requirements. In expressing this view, I am conscious of the need for both the Authority and the Director to maintain their separate statutory independence. I do not believe that such independence would be compromised if the Authority was given administrative responsibility to support the Director. Indeed my view is that it would be likely to be enhanced. I believe this approach will result in the agencies being more effective as well as assisting the casino operator in carrying out its commercial operations.

**Recommendation**

**I recommend that consideration be given to transferring the administrative responsibility for supporting the Director from the Department of Gaming and Racing to the Authority.**

## **CHAPTER 10 - ACKNOWLEDGMENT**

The undertaking of the investigation required by the Statute was both complex and lengthy. The many issues raised required detailed examination. Discussions were held with a great many organisations, government bodies and individuals. I record my appreciation to all who made submissions and those who gave of their time to enable issues to be explored in detailed discussions.

As the report records, the Authority brought together an investigative team comprising persons with skills from a variety of disciplines. Ms Beth Walker and Ms Anne Quinlan, both lawyers, provided great assistance in various aspects of the inquiry. Sergeant Murray Osborne of the Licensing Enforcement Agency of the NSW Police Service contributed significantly to the investigation. They also carried the primary burden of the investigation in the United States of America.

Many other law enforcement and casino regulatory agencies were of invaluable assistance. I could not have conducted the inquiry without the help of specialists. Mr Bernie Mulhern and Mr David Barbuto from Pannell Kerr Forster, provided expertise in casino and hotel management and Mr Brian James of Pannell Kerr Forster advised on financial aspects. My thanks go to each of them for their assistance and support.

With respect to matters going to construction of the building, I received guidance and assistance from Mr Don Davison, the Authority's Project Development Manager and Messrs Kevin Rice and David Chesterman, architects.

I also acknowledge the assistance given to the inquiry by the Director of Casino Surveillance, Mr Ron Harrex and his staff.

Ms Tracey O'Donnell was appointed as executive assistant to the investigation performing her many tasks with great skill. Both she and Ms Nerida Hogan receive my thanks for their efforts in the compilation of the final report.

The Authority and its staff provided me with every support in carrying out my task. Mr Paul Burgess, the Operations Manager, provided logistical and other support. My special thanks are due to the Authority's Chairman, Mr Christopher Cullen and the Legal Member, Ms Kaye Loder who also joined me on the Investigation Co-ordination Committee.

Successful completion of the investigation would not have been possible without the assistance of the Authority's Chief Executive, Mr Lindsay Le Compte. I record my deep appreciation for his efforts and assistance throughout the task.

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## ANNEXURE 1

### COMMERCIAL ADVISORY PANEL

#### Authority Staff

Mr Don Davison  
*BArch(Hons); DipTechIArch); MTCP*  
Project Development Manager

Mr Philip McDonald  
*BComm; CPA; ASIA*  
Commercial Manager

#### Background

Experienced in major project design, town planning, construction and administration

Experienced in major property development, project finance and administration

#### Appointed Members

Mr David Barbuto  
*BPharm*  
Director,  
Pannell Kerr Forster

Mr Greg Booth  
*LLM(Hons)*  
Assistant Crown Solicitor  
Crown Solicitor's Office

Mr Wally McDonald  
*BEc; LLB(Hons)*  
Partner  
Clayton Utz

Mr Brian Newman  
*BEng; MBA*  
General Manager  
City West Development Corporation

Mr Robert Scullion  
*FCPA*  
Assistant Secretary  
The Treasury

Mr Mark Snape  
*BEc; MBA; ACA; GAICD*  
Director  
County NatWest Corporate Finance Aust Ltd

#### Expertise

Casino/hotel development and tourism issues

Legal advising and related matters

Commercial law and related legal advice

Commercial property issues, large developments and City West area

Public sector financial input

Financial aspects of casinos and large corporate financing

## **Specialist Advisers**

Mr Don Black  
*ACII*  
Alexander & Alexander

Mr Brian James  
*FCA*  
Pannell Kerr Forster

Mr George Livanos  
*BA, LLB, BBus, MA*  
Clayton Utz

Ms Katie Malyon  
*BA, LLB(Hons)*  
Clayton Utz

Mr Bernie Mulhern  
Pannell Kerr Forster

Mr Andrew Poulos  
*BA, LLB*  
Clayton Utz

Mr Tony Rein  
*B.Comm, LLB*  
Clayton Utz

Mr Jack Thomas  
*ACA; AASA(Senior); LLB*  
Deloitte Touche Tohmatsu

## **Specialist Advice**

Worldwide risk management and insurance services

Financial

Building and Commercial

Property

Liquor

Casino and Hotel Operations

Litigation

Commercial Law and Related

Legal Advices

Taxation

## **DEVELOPMENT ADVISORY PANEL**

### **Authority Staff**

Mr Don Davison  
*BArch(Hons); DipTech(Arch); MTCP*  
Project Development Manager

Mr Philip McDonald  
*BComm; CPA; ASIA*  
Commercial Manager

### **Background**

Experienced in major project design, town planning, construction and administration

Experienced in major property development, project finance and administration

### **Appointed Members**

Mr Andrew Cappie-Wood  
Town Planner  
Director of Housing  
NSW Department of Housing

Mr David Chesterman  
*AM; Barch; DipT&CP; FRAIA; ARIBA;FRAPI*  
Architect and Town Planner  
Jackson Teece Chesterman Willis

Mr Ron Eagle  
*BE; FIEAust*  
Engineer  
Deputy Director-General, and  
Director State Projects,  
State Projects Division,  
NSW Public Works Dept

Mr David Hume  
*MUrb&RegPlg; BA*  
Town Planner, Regional Manager,  
City South, NSW Department of Planning

Mr Kevin Rice  
*BArch(Hons); MBS; LFRAIA; AIArba*  
Architect, Architectural Consultant

Professor G Peter Webber  
*BArch(Hons 1); MS; FRAIA; ARIBA*  
Professor of Architecture  
University of Sydney

### **Specialist Advisers**

Mr Michael Colston  
*BSc(CivEng); MEngSc (Traffic and  
Transportation); FIEAust; MITE; CPEng*  
Partner  
Colston Budd Hunt & Twiney

### **Expertise**

Previous General Manager or  
Property Services Group, Urban  
Planning. Involved in the  
Olympic Master Plan for  
Homebush Bay

Senior partner of Jackson Teece  
Chesterman Willis. Experienced  
in major project design, town  
planning and administration

Major project design,  
construction and administration.  
Expert in major building and  
engineering projects

Major developments and urban  
planning

Previous senior partner of Rice  
Daubney, experienced in major  
project design, construction and  
administration. Past President of  
the Institute of Architects (NSW)

Former Government Architect of  
NSW. Former Commissioner of  
Planning. Experienced in major  
property developments,  
construction and development

### **Specialist Advice**

Traffic, Transport & Town  
Planner. Traffic planning,  
management and control.  
Previous casino experience



Mr Stephen Dunkley  
*BSc; AAIQS; ARICS*  
Partner  
Widnell

Quantity Surveyor  
Quantity surveying and advising  
on project costs. Previous  
casino experience

Mr Angelo Franco  
*BE(Mechanical)*  
Public Works Department, NSW

Energy  
Manager of the Energy  
Management Group of  
State Projects, a division of  
NSW Public Works

Mr Chris Graham-White  
*BSc; MIEAust; MICE*  
McLachlan Consultants

Project Programming  
Project planning, risk analysis

Mr Gavin Litfin  
*DipArch(QIT); BArch(Q); Murb & Reg Plg(Q);  
MED(Yale); FRAIA; AIArba*  
Director/Architect  
Litfin Group Pty Ltd

Casino & Back of House  
Component Areas. Adviser to  
the Queensland State  
Government on casino design  
and functionality. Expert in  
casino design

Ms Rosemary Risgalla  
*BEc(Hons); MCom*  
Principal Industrial Relations  
Public Works Department, NSW

Industrial Relations  
Industrial relations specialist

Mr David Summers (Partner)  
*FAQS; FRICS*  
Partner  
Widnell

Quantity Surveyor  
Quantity surveying and advising  
on project costs. Previous  
casino experience.

Mr Peter Twiney (Partner)  
*BSc; MSc; MICE; MCIT; CPEng; MIEAust*  
Partner  
Colston Budd Hunt & Twiney

Traffic, Transport & Town  
Planner. Traffic planning,  
management and control.  
Previous casino experience

## ANNEXURE 2

### SUBMISSION MAKERS TO THE INQUIRY

1. Arthur Andersen
2. Australian Liquor, Hospitality and Miscellaneous Workers Union
3. Australian Casino Equipment Supplies
4. Avant Courier Services
5. All States Food Service Pty Limited
6. Commonwealth Paper Company
7. Corporate Express Australia Limited
8. Commonwealth Bank of Australia
9. State Chamber of Commerce
10. Coopers & Lybrand
11. Centacare - Catholic Community Services
12. Darling Harbour Authority
13. Dymocks Booksellers
14. Mr Norman Hooper
15. John Huxley (Casino Equipment) Ltd
16. Consensus Research Pty Ltd
17. Archbishop of Sydney
18. Leighton Properties Pty Limited
19. NSW Bloodhorse Breeders' Association Ltd
20. Pathfinder Strategies Pty Limited
21. Moran Contract
22. Peak Promotions
23. The Registered Clubs Association of NSW
24. Squeezed Everyday
25. Star City Pty Limited (final submission)
26. Sydney Harbour Casino
27. Steven Salgo (Sales) Pty Ltd
28. Tempo Services Limited
29. Technical Casino Services Ltd
30. Tourism Council Australia

31. Tourism New South Wales
32. Tourism Task Force
33. Professor A Blaszczyński
34. Wesley Mission
35. Wesley Gambling Counselling Services
36. Harold Abrahams and Associates Pty Ltd
37. Vertifix Aust Pty Ltd
38. Labor Council of New South Wales
39. Lawrence Dry Cleaners Pty Limited
40. Satellite Music Australia
41. Carldon Constructions
42. QBE Sydney Swans
43. Pivotal Group of Services
44. White & Lewis Consulting Pty Limited
45. Inchbold Nettleton Pty Limited
46. International Management Group of America Pty Limited
47. Kathy Howard Special Events
48. Aon Risk Services Australia Limited
49. Syd Howard Fireworks International Pty Ltd
50. The Plastics Centre
51. Hanna Match (Australia) Pty Ltd
52. Mr Walter Vignoli - submission by Corrs Chambers Westgarth on Mr Vignoli's behalf
53. Haddon/Perceptions

**MINISTERIAL DIRECTIONS AND GOVERNMENT PREFERENCES**

**CASINO CONTROL ACT 1992**

**MINISTERIAL DIRECTIONS CURRENT AS AT 13 MAY 1993**

The following Ministerial directions to the Casino Control Authority under the Casino Control Act 1992 are current as at 13 May 1993:

***Section 7(1) directions***

- (1) The permissible location for a casino is the Pymont Power Station site.
- (2) The casino is required to be of a size sufficient to permit:
  - the maximum number of gaming tables in the casino being limited to 200, subject to review from time to time;
  - Keno being available in the casino, subject to agreement between the appropriate licensees under the Lotto Act 1979 and the casino operator;
  - a TAB facility, subject to agreement between the casino operator and the Totalizator Agency Board;
  - slot machines (gaming devices).
- (3) The required style of the casino is to reflect the following:
  - The casino should not be one large, open gaming hall. It should incorporate a range of areas to provide patrons with a changing perspective and a sense of intimacy;
  - The casino should provide a relatively sophisticated atmosphere without exuding an elitist ambience and should be clearly differentiated from gaming areas available in registered clubs and hotels;
  - Provision should be made for one or more exclusive gaming areas for major patrons. These areas might be characterised by higher dress standards (where considered appropriate), higher table betting limits and fine dining;
  - Substantial provision should be made to ensure that casino visitors may relax in comfort in and away from gaming areas. A range of food and beverage facilities, including fine dining and cocktail/piano bars as well as basic bistro/cafe/hotel bars, should be provided. Provision should be made for those persons who wish to visit the complex and use certain of its facilities without being penalised by a price premium;

- Movement of casino visitors, including disabled visitors and others, around the casino should be made as easy as possible given the potential number of persons in the complex at peak times;
  - Entry to the casino should be designed so as to avoid the possibility of non-casino visitors to the complex being required to pass through or past casino entry points. The casino may be linked to, but its entrance(s) must be separate from, the balance of the complex.
- (4) The development required to take place in conjunction with the establishment of a casino should encompass the following:
- The complex must be developed on the basis that it will be regarded as a landmark building and, in this context:
    - \* should be developed as a component of an integrated international resort style complex;
    - \* should take advantage of views available to Sydney Harbour and the city;
    - \* be designed so as to provide facilities which are open, light and airy;
    - \* should deal sensitively with impact on surrounding development and minimise noise or other potential environmental impacts;
    - \* the complex should be contained in a building envelope of outstanding architectural merit which takes account of the climate of the city and its cultural diversity and sophistication;
    - \* the complex may be developed on a staged basis, with the casino being established initially.
  - The complex should include:
    - \* an international hotel of approximately 600 rooms, suites or a combination of equivalent accommodation facilities which would cater adequately for international and domestic tourists and which might be developed on a staged basis;
    - \* conference/convention facilities;
    - \* cultural/entertainment facilities;
    - \* a variety of food and beverage facilities designed to meet the needs of expected visitors to the complex;
    - \* sporting and recreational facilities such as swimming pools, health centres, gymnasium, tennis courts, etc; and
    - \* retail facilities of a standard and size to cater for the likely market.
  - On-site car parking facilities should be able to accommodate 2,000 to 3,000 cars. Exact numbers will be a matter for the developer/operator but will need to take account of relevant statutory and other governmental requirements.

- On-site car parking should preferably be able to be located below ground.
- The developer/operator is to be encouraged to make arrangements with the operators of surrounding carparks in order to cater for overflow from the casino complex.
- The complex should be serviced by as many modes of transport as are feasible and these services should ideally operate on an extended hours basis.
- Substantial on-site porte cochere kerb space for taxis, together with an off-site feeder rank are required. Porte cocheres should also provide for cars for pick up and set down.
- Substantial set down, pick up and parking facilities are required for coaches/buses.
- Access to the complex by pedestrians should be safe and convenient and preferably under cover, and
- Management systems will be required in order to deal with traffic flow and related issues which might affect the amenity of surrounding areas.

***Section 8(2) directions***

Slot machines are available in a casino at the maximum ratio of 7.5 machines for each gaming table and on the following basis:

- \* the maximum number of gaming devices in any temporary casino will be 500;
- \* the total number of gaming devices in the permanent casino will be limited to 500 until such time as a central monitoring system is developed and installed to the satisfaction of the Authority and the Director of Casino Surveillance;
- \* after the installation of the central monitoring system, the casino operator be allowed to move from 500 gaming devices up to 1,500 gaming devices;
- \* the casino gaming devices will:
  - be the same type of devices with the same range of games as operated by clubs registered in accordance with the Registered Clubs Act 1976;
  - be "coin of the realm" devices of the same denomination as devices available to registered clubs;
  - have the same bet limits and prize limits as devices available to registered clubs;
- \* gaming devices on which player interactive draw poker, or some other player interactive game derived from draw poker, will not be permitted in the casino.

***Section 9 directions***

The Authority is to publicly invite expressions of interest for the establishment and operation of a casino in accordance with the foregoing directions.

***Section 10 directions***

The Authority is to publicly invite applications for a casino licence in accordance with the foregoing directions under sections 7 and 8.

## **CASINO CONTROL ACT 1992**

### **GOVERNMENT PREFERENCES CURRENT AS AT 13 MAY 1993**

The following Government preferences in relation to the Sydney casino are current as at 13 May 1993:

#### ***Temporary Casino***

The Government's preference on this issue is as follows:

- \* that provision be made for a temporary casino to be established;
- \* that the temporary casino be located in or near to the Sydney CBD;
- \* that the specific site for the temporary casino be decided by the Casino Control Authority in consultation with the selected operator and the appropriate planning consent/approval bodies;
- \* that the selected operator be responsible for obtaining all necessary consents and approvals for the temporary casino;
- \* that the operator be able to nominate a crown site or a privately owned site;
- \* that the size of the temporary casino be up to a maximum of 100 gaming tables and a maximum of 500 slot machines, subject to the capacity of the proposed site and its environment;
- \* that the Authority require a contractual obligation from the operator to ensure that the temporary casino does not operate for longer than the minimum period necessary to establish the permanent casino; and
- \* that the temporary casino close immediately prior to the permanent casino commencing operations.

#### ***Exclusivity of casino licence***

It is the Government's wish that the Authority enter into an exclusivity agreement with the selected casino operator which would provide that the Government will not sponsor or support legislation to permit more than one casino in New South Wales for a defined period of time from the commencement of casino gaming operations. The Government has agreed that this agreement should be binding on the Crown.

The exclusivity agreement should include terms giving effect to the following:

1. the exclusivity be for the conduct of casino gaming in New South Wales;
2. the geographic area for exclusivity be "whole of State";



3. the period of exclusivity be 12 years;
4. the exclusivity agreement include provision for compensation for "loss of profit" only should the Government breach the agreement;
5. the agreement be conditional upon the operator meeting performance criteria, to be specified in the agreement, during the exclusivity period; and
6. the agreement should provide for the resolution of any matter in dispute between the parties.

It is desirable that the Authority refer to the exclusivity arrangements in the documentation provided to persons or organisations expressing interest in the establishment and operation of a casino, and to persons or organisations applying for the casino licence. The agreement will, in due course, require Ministerial approval under section 142 of the Act.

## ANNEXURE 4

### **Terms of Authority's Request to Director of Casino Surveillance**

The level of compliance by the casino operator with the operator's obligations under the Casino Control Act and the casino licence issued on 14 December 1994 and in respect of other matters as follows:

1. Whether the maximum number of gaming tables and slot machines operating in the casino has exceeded 150 and 500 respectively at any given time
2. Whether gaming has taken place only within the boundaries of the casino defined in the casino licence
3. The extent of compliance by the casino operator with the direction given by the Authority under section 29 of the Act regarding children who are left unattended and at risk in the vicinity of the casino
4. Any investigation, together with its outcome, conducted by the Director of the casino operator or any employee of the casino operator holding a key position (excluding investigations of applications for licences)
5. Compliance with the casino operator's obligation to train employees in accordance with training courses approved by the Authority (section 64 of the Act)
6. Whether gaming has been conducted in the casino in accordance with the requirements of section 65 of the Act
7. Whether the casino operator and special employees have complied with the provisions of section 66(2) and (3) of the Act
8. Whether the Director has found any gaming equipment in the casino to be unsatisfactory and, if so, action taken by the Director and the casino operator in connection with that equipment (section 69 of the Act)
9. Compliance by the casino operator relating to the conduct of gaming (section 70 of the Act)
10. Compliance by the casino operator regarding operating times of the casino (section 71 of the Act)
11. Compliance by the casino operator with the provisions of section 72(1)(d) and (e) of the Act regarding assistance to patrons

12. Compliance by the casino operator regarding the operation of security equipment etc (section 73 of the Act)
13. Whether or not the casino operator or a casino employee has contravened the provisions of section 74 of the Act relating to the provision of credit
14. Compliance by the casino operator in connection with cheques and deposit accounts (section 75 of the Act)
15. Compliance by the casino operator with the provisions of section 76 of the Act relating to junkets and inducements
16. Compliance by the casino operator with the provisions of section 79(4), 83 and 85 of the Act regarding the exclusion of persons from the casino
17. Compliance by the casino operator with the provisions of section 89 of the Act, relating to liquor including compliance with the relevant regulations, the liquor licence and liquor licence agreement
18. Whether or not the casino operator has complied with its obligations under sections 94, 95 and 98 of the Act regarding minors
19. The number and nature of complaints received from patrons and the outcome of the investigation conducted pursuant to section 110 of the Act
20. Whether or not the casino operator or a casino employee has breached the provisions of section 113 of the Act relating to the obstruction etc of inspectors
21. Compliance by the casino operator with its obligations under the casino duty and community benefit levy agreements
22. Compliance by the casino operator with the provisions of section 124 and 125 regarding the system of internal controls and administrative and accounting procedures applicable to the casino
23. Compliance by the casino operator with the provisions of section 126 of the Act regarding banking
24. Compliance by the casino operator with the provisions of sections 127 and 128 of the Act regarding the keeping of accounts and the preparation of financial statements
25. Compliance by the casino operator with the provisions of section 129 of the Act regarding the keeping of books etc relating to the operations of the casino

26. Compliance by the casino operator with the provision of section 130 of the Act relating to the annual audit of the books and accounts of the casino operator
27. Compliance by the casino operator and its staff with the provisions of section 163 of the Act relating to conduct in the casino
28. Compliance by the casino operator with its obligations generally in relation to regulations made under the Casino Control Act
29. Whether, in the opinion of the Director of Casino Surveillance, the casino operator has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino
30. Compliance by the casino operator with its obligations under cash transaction reporting legislation

## ANNEXURE 5

### SUMMARY OF LEGAL AGREEMENTS

**Development Agreement** - under this agreement Leighton was responsible for execution of the development of the temporary and permanent casinos. The agreement contains provisions relating to the fixed price contract for construction as well as issues relating to variations in the development.

**Leighton Guarantee and Indemnity** - Under this agreement Leighton guaranteed and provided indemnities to Star City in relation to the performance of LPPL and LCPL under the Development Agreement and building contract.

**Temporary Site Construction Sub-Lease** - This sub-lease was between the Authority and Star City and entitled Star City to occupy the temporary casino site during the construction and establishment of the temporary casino.

**Temporary Site Sub-Lease** - This sub-lease was between the Authority and Star City and entitled Star City to occupy the temporary casino site from the date of completion of construction of the temporary casino. Star City was required to pay the Authority a rental for the first 3 years at \$4.125 million per annum. The rental was paid direct to the City West Development Corporation which owned the site.

**Permanent Site Construction Lease** - This lease was between the Authority and Star City and entitled Star City to occupy the permanent casino site during the period of construction of the permanent casino. Rent of this site and rent under a permanent site freehold lease was pre-paid for the first 12 years with a payment of \$120 million being paid to the Authority on grant of the casino licence.

**Permanent Site Freehold Lease** - This lease is between the Authority and Star City and is for a term expiring 99 years from the date of grant of the casino licence. The rent for the site was part of the \$120 million pre-payment for the first 12 years following which Star City is to pay an annual rent of \$250,000 per annum. Upon

termination of the lease, title to the improvements reverts to the Authority without payment or compensation.

**Occupational Licence Agreements (temporary casino and permanent casino) -**

These two agreements gave Star City a licence to occupy the temporary and permanent casino sites.

**Casino Complex Management Agreement** - This Agreement is between Star City and SCM. Under this agreement, Star City turns over to SCM control and discretion in the operation, management and supervision of the temporary and permanent casinos. SCM is responsible for all aspects of operation of the casino complexes and receives the following fees:-

- 1.5% of casino revenue for each financial year;
- 6% of casino gross operating profit (ie casino revenue less casino operating expenses) for each financial year;
- 3.5% of Non-Casino Revenue (ie revenue from operating the casino complex less casino revenue) for each financial year; and
- 10% of Non-Casino Gross Operating Profit (ie Non-Casino Revenue less operating expenses excluding casino operating expenses) for each financial year

There is also provision for the charging against casino revenue and non-casino revenue of the following amounts for the purpose of creating a sinking fund to be called the capital expenditure reserve account:

- Commencing on the opening of the temporary casino, up to 3% of casino revenue and up to 1.75% of Non-Casino Revenue; and
- Commencing on the opening of the Sydney Casino, up to 6% of Revenue and up to 3.5% of non-casino revenue.

**Casino Operations Agreement** - This agreement is between the Authority and Star City and governs the relationship between the Authority and Star City during the operation of the casino. It imposes a non-competition warranty on Star City as well as obligations with respect to ownership, financial and reporting obligations.

In relation to the operation and management of the Casino, Star City:

- is required to use its best endeavours to conduct and manage the casino at a first-class international standard on a best practice basis;
- undertakes to operate the casino in accordance with Star City's application for the casino licence and provide all features, facilities and attractions and services described in the licence application;
- provides certain undertakings in respect of the provision of gaming equipment and to play only the games permitted in accordance with the provisions of the Act; and
- is obliged to advertise, market and promote the casino.

**Casino Exclusivity Agreement** - Under this agreement the Authority granted Star City exclusive licence to conduct certain table games on the temporary casino site and Sydney casino site for a period of 12 years from completion of construction of the temporary casino. If, during this exclusivity period, another licensed casino opens in New South Wales on any other site or sites other than the temporary casino site or the permanent casino site, then the Authority will pay to Star City an amount equal to all damages, costs and expenses suffered or incurred by Star City as a result of such occurrence (including loss of profits).

The agreement also provides protection to Star City against the Parliament of the State of New South Wales enacting subsequent legislation prohibiting casinos, either in New South Wales generally, or on the Sydney casino site or temporary casino site, during the period of 30 years from completion of construction of the temporary casino. If this occurs, or if the relevant Minister gives a direction requiring the reduction of table games and gaming machines below a certain number, or requires the casino to operate

for less than 7 days a week, 24 hours per day, then subject to termination of relevant leases, the Authority shall pay to Star City an amount equal to



all damages, costs and expenses suffered or incurred by Star City as a result of that action (including loss of profits).

**Casino Licence** -This licence grants the right to conduct and play table games and use gaming machines at the temporary casino site and the permanent casino site subject to provisions of the Act and the conditions set out in the casino licence.

The licence lasts for a period of 99 years from the date of issue unless cancelled by the Authority or surrendered by Star City. The licence confers no right of property on the holder and is incapable of being assigned or mortgaged, charged or otherwise encumbered.

Under the Act no right of compensation arises against the Authority or the Crown for the cancellation, suspension or variation of the terms and conditions of the licence, although the provisions of the Casino Exclusivity Agreement give rise to compensation in certain instances.

**Casino Duty and Community Benefit Levy Agreement** - This agreement is between the Treasurer of the State of New South Wales and Star City, as licence holder.

This agreement sets out the obligations of Star City to pay various duties and levies to the Treasurer. In particular, s.114(1) of the Act specifies that a casino duty is to be paid to the Authority in respect of each casino licence. Further, s.115(1) provides that a community benefit levy is to be paid to the Authority in respect of each casino licence. This agreement sets out the amount and method of payment of the payments to the Government.

The obligations of Star City under this deed are secured by the Casino Control Authority Charge.

**Casino Taxes Agreement** - This agreement is complementary to the Casino Duty Community Benefit Levy Agreement which contains the primary obligations of Star City regarding the payment of duty. This Agreement:

- requires Star City to effect and maintain a policy of insurance in respect of the loss of anticipated Casino tax and community benefit levy;
- provides that Star City agrees to indemnify the Authority in respect of any shortfall of any moneys required to be paid under the Casino Duty and Community Benefit Levy Agreement; and
- provides that the Authority Charge shall secure Star City's obligations under the Act, the Casino Duty and Community Benefit Levy Agreement and this agreement.

**Casino Control Authority Charge** - The charge gives the Authority a fixed and floating charge over all the assets and undertakings wheresoever, both present and future, of each of Star City's assets.

The Charge secures payment of all monies and the performance of all obligations which Star City has to the Authority and secures the punctual performance, observance and fulfilment of the obligations to the Authority.

The Charge is a second ranking charge to the charge given by Star City to the Commonwealth Bank of Australia (CBA) to secure their obligations under the CBA Facility Agreement.

**Obligations Default Deed** - This deed between the Authority and Star City relates to the Temporary Site Construction Sub-Lease, Temporary Site Sub-Lease and Permanent Site Construction Lease and, in particular, certain obligations contained therein, including the:

- obligation to pay rent;
- duty to perform covenants; and
- restrictions on assignment

**Casino Control Authority Cross Guarantee** - Under the terms of this guarantee, Star City agrees to irrevocably and unconditionally guarantee to the Authority the performance under the project documents and security of each of the other SHCH Group companies.

In addition, Star City has agreed to indemnify the Authority against any loss or damage suffered by it and arising out of a breach of any of the obligations by any of the SHCH Group companies, under either of project documents or security.

**Continuity and Co-operation Agreement** - This agreement is between the Authority, Star City and CBA.

As the casino licence confers no proprietary right in Star City, there is therefore no right which can be assigned or mortgaged to the CBA. Without the casino licence, the value of the casino complex is substantially reduced. Therefore, CBA has entered into this agreement with the Authority to provide an enforcement regime which will apply in the event that Star City breaches any term or condition of the casino licence which may result in the casino licence being suspended or cancelled.

The second purpose of this agreement is to set out a regime which will apply in the event that any member of the Star City Group causes an event of default to occur under the Facility Agreement, and CBA wishes to take action under that agreement and its security as a consequence of that default. In particular, CBA has security over both the temporary casino and Sydney casino sites and the casino complex by way of a mortgage of the leasehold interests, charges and mortgages of contractual rights. This agreement sets out the mechanism under which CBA may enforce those securities while ensuring the continuity of the casino licence.

**Casino Control Authority Letter of Comfort** -This letter of comfort was provided by the Authority to CBA and Star City.

In the letter of comfort, the Authority sets out certain factors to be taken into account and procedures to be followed by the Authority when:

- amending the conditions of the licence;
- cancelling or suspending the licence;
- issuing a rectification order under the Act; and
- regulating the operation of the casino generally.

These guidelines in no way give rise to any legal, equitable or enforceable obligation on the Authority, and merely serve to enforce the provisions of the Continuity and Co-operation Agreement.

**Minister's Letter of Comfort** -This letter of comfort was provided by the then Minister for Administrative Services, the Honourable Anne Margaret Cohen, MP, in favour of Star City.

This letter of comfort complements the Authority Letter of Comfort, the Continuity and Co-operation Agreement and The Casino Exclusivity Agreement. Having regard to the above, the Minister states that if the Authority acts outside the rectification regime set out in the Continuity and Co-operation Agreement or in disregard of the procedures set out in the Authority's Letter of Comfort, she is prepared to recommend the removal from office of the Authority members, and take whatever action is necessary to ensure that Star City is afforded due process.

**MEETINGS WITH SHC EXECUTIVES**

1. Mr N Gamble, Chief Executive Officer/Director
2. Mr B Brown, General Counsel
3. Mr J Hoggett, Corporate Affairs General Manager
4. Ms Mary Anne Terry, Human Resources General Manager
5. Mr J Houssels, Strategic Planning Director
6. Mr W Elam, Chief Operating Officer
7. Mr M Horne, Slot Operations Vice President
8. Mr N Papal, Player Development Vice President
9. Ms N Barletta, Purchasing Director
10. Mr P Arbuckle, Table Games Vice President
11. Mr W Allison, Surveillance Director
12. Mr J Van Woerkom, Chief Financial Officer
13. Mr M Schleiger, Casino Controller
14. Mr P Denehy, Security Director
15. Mr R Cunningham, Entertainment Director
16. Mr M Hardman, Slot Manager
17. Mr M Cook, Casino Technical Manager
18. Mr K Lamb, VIP Services Director
19. Mr J French, Food and Beverage Director
20. Mr T Pieris, Planning and Research General Manager
21. Mr T Quinn, Information Technology Director

**KEY CLOSE ASSOCIATES**

1. Sydney Harbour Casino Holdings Limited
2. Sydney Harbour Casino Properties Pty Limited
3. Showboat Australia Pty Limited
4. Sydney Casino Management Pty Limited
5. Showboat Development Corporation
6. Showboat Inc
7. Showboat Operating Company
8. RF Egerton-Warburton
9. GH Bennett
10. W McCarthy
11. JK Houssels III
12. HG Nasky
13. JD Gaughan
14. JK Houssels
15. RJS Stewart
16. TW Elam
17. N Gamble
18. S Gilbert

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