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17 July 2019

Mr Angus Abadee
Acting Director Policy and Legislation
Liquor and Gaming NSW
GPO Box 7060
SYDNEY NSW 2001

By Email: [REDACTED]

Dear Mr Abadee

Submission on the Proposed *Casino Control Regulation 2019*

We refer to your request for public submissions on the (proposed) *Casino Control Regulation 2019 (NSW) (Regulations)*, which forms part of a review being undertaken by Liquor and Gaming NSW (L&GNSW).

Crown Sydney Gaming Pty Ltd (**Crown**), being the proposed Casino Operator of Crown Sydney under a Restricted Gaming Facility Licence, is grateful for L&GNSW providing this opportunity and we welcome further participation through the process.

Submission Background and Context

As Crown is not currently operating in New South Wales, our submission is limited to information that is either publicly available or has otherwise been disclosed to Crown. Crown is unable to consider the relevance of other regulatory requirements to the Regulations, such as the application of Standard Operating Procedures. Although this may therefore limit the extent of our commentary, we trust this submission will in any event be of benefit to L&GNSW.

On this basis, Crown respectfully makes the following submission, set out in the table below, for which we welcome further discussion with L&GNSW.

[REDACTED]

If you have any queries, require further information, or require any assistance regarding this submission, please do not hesitate to contact me or Joshua Preston (Chief Legal Officer – Australian Resorts) on [REDACTED].

Yours sincerely

[REDACTED]

Barry Felstead
Chief Executive Officer – Australian Resorts

Encl

Casino Control Regulations 2019 (NSW)

Regulation	Heading	Crown Submission
Current: 3 Proposed: 3	Definitions	<p>The proposed amendment to the definition of 'gaming machine' in Regulation 3 creates ambiguity in relation to electronic table games (semi-automated table games and fully automated table games). To avoid this ambiguity, Crown proposes that:</p> <ul style="list-style-type: none"> • The definition of 'gaming machine' should be codified, and contained within the Regulations so there is a clear and unambiguous definition of a 'gaming machine' in the Regulations; and • For the avoidance of doubt, and consistent with the Restricted Gaming Licence, the definition of 'gaming machine' in the Regulations should make clear that electronic table games (the definition of which should be added to the Regulations as well), are not included in the definition of 'gaming machine'. <p>As stated in the Restricted Gaming Licence (section 4), <i>Casino Control Act</i> (section 22A(2)) and <i>Gaming Machines Act</i> (section 56A), gaming machines / poker machines are not permitted at Crown Sydney.</p>
Current: 4 Proposed: 4	Major changes in state of affairs of Casino Operator	<p>Crown acknowledges and accepts L&GNSW's obligation and need to be kept aware of the matters that gave rise to the issuance of a licence or Associate approval.</p> <p>Crown's proposed amendments set out below protect the Regulator's ability to monitor the structure of the licensed Casino Operator, while at the same time allowing the Casino Operator to undertake normal corporate and business activities, including financing activities, without the administrative burden of unnecessarily low threshold reporting obligations.</p> <p>Items 1 and 11 of Schedule 1: Crown is of the view modern business practices dictate that a change of name of the Casino Operator (item 1(a) of Schedule 1) should be a minor change.</p> <p>A change to the principal business address (item 1(b) of Schedule 1) should only be a major change if the place the business is being conducted at changes. If instead this item relates to a change of the Registered Address of the business, Crown proposes that this should be a minor change instead.</p> <p>An increase or decrease in finance available to the Casino Operator of more than \$6.15M (item 11 of Schedule 1) should not invoke the 'major change' process.</p> <p>Notwithstanding, in relation to item 11 of Schedule 1, Crown is concerned that the current language may capture day-to-day transactions (e.g. finance available may decrease temporarily following the payment of gaming taxes) or intragroup transfers. We do not believe item 11 was designed to capture these internal fund movements. As such, we propose (as an alternative to the deletion of item 11) amending item 11 to apply only to changes in the total external facility limits available to the Casino Operator where the Casino Operator is the borrower as follows:</p> <p><i>"An increase or decrease of \$6,150,000 or more in the total external finance facility limits available to the casino operator, where the casino operator is the borrower under such external financing facilities."</i></p> <p>Item 17 of Schedule 1: Crown also does not consider that it was intended for item 17 of Schedule 1 to cover minor breaches and accordingly, proposes the following amendment:</p> <p><i>"The casino operator's material breach of obligations under any contract or</i></p>

Regulation	Heading	Crown Submission
		<p><i>arrangement for the provision of a loan or other financial accommodation."</i></p> <p>Other Items in Schedule 1: Crown submits that a review of the following sections of Schedule 1 should also be undertaken to assess their ongoing relevance/thresholds:</p> <p>Item 7: A change in any direct or indirect financial interest held by the Casino Operator in any business or enterprise (including the acquisition or disposal of such an interest).</p> <p>Item 8: The Casino Operator commencing to carry on any other business or enterprise at any place, or the appointment of a person to carry on any other business or enterprise on the Casino Operator's behalf.</p> <p>Item 10: The creation of a charge in excess of \$625,000 over any real or personal property of the Casino Operator.</p>
Current: 5 Proposed: 5	Minor changes in state of affairs of Casino Operator	<p>Crown submits that similar comments set out above in relation to 'major changes' apply also in relation to 'minor changes'. The current requirements of a minor change create unnecessary red tape and regulatory burden.</p> <p>Item 5 of Schedule 2: Crown submits that a tax assessment amendment should have some level of materiality threshold.</p> <p>Item 2 of Schedule 2: Crown considers that this item should be removed in its entirety or, as an alternative, a materiality threshold be introduced.</p> <p>Without these changes, and considering the far-reaching nature of the operations of the business and relative commonality of events (e.g. public liability, particularly in relation to matters not relevant to integrity of Casino Operations), an unnecessary burden is placed on the Casino Operator.</p> <p>Item 7 of Schedule 2: Crown also suggests that this item relating to the sale of any of the Casino Operator's assets exceeding \$310,000, be amended to permit the sale of assets in the ordinary course of business.</p> <p>Additionally, the threshold amount should be increased to \$1M, to reflect inflation and the size and experience of the two existing Casino Operators.</p>
Current: 6 Proposed: 6	Certain persons not "special employees"	<p>Crown proposes that the exemption should have a position level threshold – for example, <i>'positions not directly related to gaming and below senior manager level are exempt from licensing'</i>. Such a change would reduce the regulatory burden for both the Casino Operator and the Regulator, but still ensures that any employees directly involved in gaming or of sufficient seniority to influence the business, still require a licence.</p>
Current: 10-13 Proposed: 9-12	Form of controlled contracts and variations of controlled contracts	<p>Crown submits that the controlled contract regime existing within the legislation should be reviewed and reassessed in its entirety so as to ensure an appropriate balance between the objectives of the <i>Casino Control Act 1992</i> and the operational requirements of Casino Operators is achieved. In particular, we consider that the exemptions available under Regulation 12 to controlled contracts falling under the first limb of the definition contained in section 36 of the Act (gaming equipment contracts) should also apply in respect of controlled contracts falling under the second limb of the definition contained in section 36 of the Act (materially significant contracts) - we do not see any basis for the current distinction.</p> <p>Whilst this reflects Crown's holistic views of the controlled contract provisions, the submissions below are limited to the provisions contained in the proposed Regulations.</p> <p>Crown acknowledges and agrees with L&GNSW's comments contained in the Regulatory Impact Statement in relation to the social benefits flowing from the controlled contract provisions and appropriate scrutiny and regulation of contracts</p>

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		<p>with the potential to influence the integrity of Casino Operations. However, we consider there is scope for amendments to the provisions so as to support a more efficient operation of the legal framework attached to controlled contracts.</p> <p>The controlled contract provisions, in certain respects, can be unduly prohibitive in terms of restricting the Casino Operator from efficiently managing its operations, including in relation to matters which do not affect the integrity of the operation of the Casino, and are overly prescriptive in comparison to the approach taken in other Australian jurisdictions.</p> <p>In this regard, Crown makes the following submissions:</p> <p>Proposed amendment: Crown submits that Regulation 11 (in particular, Regulations 11(1)(d) and (e)) should be repealed.</p> <p>Regulation 11 is unnecessarily prescriptive in requiring controlled contracts to take a certain form, which must include a full description of the goods and services and the nature and amount of consideration for the provision of the goods and services.</p> <p>Repealing Regulation 11 (or, as an alternative, repealing only Regulations 11(1)(d) and (e)) would provide Casino Operators greater flexibility in the manner in which the Casino Operator can engage with and negotiate on a commercial basis with their suppliers, including in terms of the pricing and itemisation of the goods and services. For example, this may allow the parties to agree that the contract can cover the supply of goods at prices as may be agreed between the parties from time to time. If not specifically stated that the contract will cover the supply of gaming equipment, the Casino Operator would nevertheless be required to adhere to the controlled contract provisions if it is intended that the contract will extend to the supply of gaming equipment. This approach ensures that the integrity of gaming and Casino Operations continues to be maintained under the requirement for gaming equipment to be approved by the Authority under section 68 of the Act, whilst providing the Casino Operator with greater flexibility in the manner by which it may engage its suppliers.</p> <p>This approach is consistent with the controlled contract regimes existing within other jurisdictions, which are essentially silent on the form the controlled contract must take, leaving this matter to the discretion of the Casino Operator. We also note that the approach taken in other jurisdictions has not to our knowledge seen any integrity issues arise under those frameworks.</p> <p>Proposed amendment: Crown submits that Regulation 12 of the Regulations should be amended to include an exemption for a contract that varies the terms of an existing controlled contract in respect of matters which are unrelated to the supply or servicing of gaming equipment. Crown submits that this be achieved by way of inclusion of a new Regulation 12(g) as follows:</p> <p><i>'a contract that varies the terms of an existing controlled contract in relation to matters which do not relate to the supply or servicing of gaming equipment that has been approved by the Authority under section 68(1).'</i></p> <p>It is not uncommon for variations of contracts to be made in relation to a number of different terms and a number of different times throughout the duration of the contract. These variations may be in respect of matters such as updating contact details and amending delivery details, payment terms and pricing, none of which relate to the supply or servicing of gaming equipment or could potentially impact the integrity of the operation of the Casino in any way. Particularly in circumstances where the original controlled contract has already undergone review and approval (or not been objected to) by the Authority.</p> <p>Whilst pricing changes are already captured in the list of exemptions within the Regulations, other amendments which are inconsequential to the supply or servicing</p>

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		<p>of gaming equipment and are not materially significant to the operation of a Casino are not included.</p> <p>The change proposed by Crown would allow the Casino Operator to operate its business more efficiently, with the ability to enter into variations to existing controlled contracts without unnecessary delay or process, whilst simultaneously alleviating any procedural burden on L&GNSW by ensuring that its resources are not unnecessarily engaged in matters which are inconsequential to the operation of a Casino.</p> <p>Proposed amendment: Crown submits that Regulation 12 should be amended to include an exemption for a contract that varies the terms of an existing controlled contract in relation to the type or volume of goods or services to be supplied. For example, a variation to increase the number of table games to be supplied or to add the supply of new or updated versions of gaming equipment (each falling under the definition of gaming equipment approved by the Authority under section 681(1)), or to allow for the supply of goods ancillary to gaming equipment, for example gaming table chairs (not falling under the definition of gaming equipment approved by the Authority under section 68(1)). Crown submits that this be achieved by way of inclusion of a new Regulation 12(h) as follows:</p> <p><i>‘a contract that varies the terms of an existing controlled contract in relation to the type or volume of goods or services to be supplied or performed’.</i></p> <p>The exemption proposed by Crown allows the Casino Operator to enter into variations to existing controlled contracts in circumstances where there is a change in volume or type of goods or services to be supplied where either:</p> <ul style="list-style-type: none"> • such goods or services do not relate to gaming equipment under s 68(1) (and so fall outside the scope of what is intended to be captured by the controlled contract provisions); or • do relate to gaming equipment approved by the Authority under s 68(1) (in which case the equipment itself has already been approved by the Authority, as has the supplier/service provider under the review process already undertaken by the Authority in its consideration of the original controlled contract). <p>This allows the Casino Operator to operate its business more efficiently by entering into variations to existing controlled contracts without delay, whilst simultaneously ensuring that L&GNSW’s resources are not unnecessarily engaged, in circumstances where there is a change in the goods or services to be supplied where such change either does not fall within the scope of what is intended to be captured by the controlled contract provisions, or the gaming equipment itself has already been approved by the Authority under s 68(1), as has the supplier under the Authority’s original controlled contract review. Crown therefore submits that, due to the existence of other approval processes within the Regulations, these types of controlled contract variations would not impact the integrity of gaming or Casino operations, should the exemption be adopted.</p> <p>Proposed amendment: Crown submits that the fees in respect of variations to controlled contracts should not be the same as the fees applicable in relation to the original controlled contract. Crown submits that the applicable fee in respect of variations to controlled contracts set out in Schedule 7 should be 10 fee units.</p> <p>Crown is of the view that a variation to a controlled contract should not attract a fee that is equivalent to the prescribed fee required for original controlled contracts, as the contract itself has already been the subject of a detailed review by the Authority in the first instance. The review of a variation to a contract that has already been approved (or not objected to) by the Authority is likely to be less comprehensive when compared to the review conducted in respect of the original contract, and a</p>

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		commensurate decrease in fees payable would be a reasonable outcome in reflecting the review attributable to a variation. In this respect we note that s 37(1) of the Act does not prohibit the making of more than one type of prescribed fee category.
Current: 20 Proposed: 14	Gambling Inducements	Complimentary beverages are a common (and necessary) service that is offered at all VIP gaming facilities (to our knowledge) and one that is expected in a table games VIP member only facility. The offer of complimentary or discounted beverages is not used as an inducement to participate in gambling, but as a service and benefit of being a VIP member. Crown suggests that the language of Regulation 14(a) is amended to reflect that complimentary beverages offered in VIP members only areas where only table games are played, are exempt from the provisions of Regulation 14(a).
Current: 20(b) Proposed: 14(b)	Gambling Inducements	<p>Crown notes its submissions in relation to the definition of gaming machines (refer to comments at Regulation 3 in this table above). Although Crown is of the clear view as articulated above that electronic table games should not be included as gaming machines, Crown in any event makes the following submissions in relation to proposed Regulation 14(b).</p> <p>Crown submits that the Regulations should exempt offers of free credits made to members of a membership program established by a Casino Operator. Those persons have already independently elected to become members of the Casino Operator and thus to fall within a class of persons that participate in gaming. An offer of free credits made directly to members could therefore not be considered to induce that class of persons. This approach provides the Casino Operator greater flexibility in the manner in which it is permitted to promote its business. Harm minimisation obligations and initiatives undertaken by the Casino Operator will assist in ensuring any offers of free credits are made within a framework that promotes responsible gaming.</p> <p>In the alternative, Crown submits that the deletion of the words ‘by means of letter box flyers, shopper dockets, or any other similar means’ to the proposed Regulation 14(b) (as currently exists in Regulation 20(b)) is not necessary, as the inclusion of these words ensures that Casino Operators do not offer free credits to the public at large as an inducement to play gaming machines, however continues to allow the Casino Operator some flexibility in the manner in which it chooses to promote its business, within a responsible gaming framework. In addition, Crown submits that the wording in the proposed Regulation (without the inclusion of wording to address restrictions on the method by which such an offer may be made (i.e. by letterbox drop)) is too subjective to be adequately determinable by a Casino Operator in a practical sense, as it does not prescribe what type of offer would be considered to be <i>‘an inducement to persons to become players of gaming machines in the casino’</i>.</p>
Current: 22, 23 and 24 Proposed: 16, 17 and 18	Approval of English and other community language player information brochures Provision of player information brochures	<p>The Regulations are not currently clear – it states that the Authority “may approve” brochures, but then goes on to say brochures must be in a form approved by the Authority and importantly, “obtained” from the Authority.</p> <p>Given the premium environment of Crown Sydney, it would be beneficial for Crown to be able to design/produce its own brochures, applying content requirements as determined by the Regulator.</p> <p>Crown also submits that L&GNSW should consider greater use of digital forms of player information, given current advances in technology.</p>

Regulation	Heading	Crown Submission
Current: 30 Proposed: 23	Prohibition on accepting transfer of prize winning cheques	<p>The proposed Regulation 23 prohibits a person ‘...other than a bank or authorised deposit-taking institution...’ from accepting the transfer of a cheque that the person knows, or could reasonably be expected to know, is a prize winning cheque.</p> <p>The purpose of the section is both Anti-Money Laundering related and is designed to stop persons from selling and buying cheques and responsible gaming related, so that winnings aren’t immediately wagered.</p> <p>A review of this Regulation should be considered in the context of a competitive market where there is more than one Casino and the strong measures currently in place regarding Anti-Money Laundering and responsible gaming related practices. Please also note that it ordinarily is, and in this instance should be, conventional for one Casino to accept a cheque from another Casino.</p> <p>An alternate view is to insert ‘casino’ into the exemptions clause, eg: ‘...other than a bank, casino or authorised deposit-taking institution...’</p> <p>Consideration should also be given to replacing ‘cheques’ (an antiquated and declining instrument) with the ability for Casinos to transfer winnings to patrons electronically.</p>
Current: 33 Proposed: 26	Prohibitions on gaming-related advertising	Crown submits that this Regulation should be clarified by specifically excluding advertising that is not related to gaming.
Current: 46(A) Proposed: 45	Casino precinct	<p>Should a similar definition of ‘Casino Precinct’ be imposed in respect of Crown Sydney, sufficient consideration needs to be given to the unique nature of Crown Sydney and the private residences that are included within the Resort.</p> <p>In the event that an owner/resident of an apartment at Crown Sydney is an excluded person, they must be able to maintain access to their residence at all times, without breaching their exclusion order, whilst also ensuring that Crown does not have a duty to notify the police each time an excluded owner/resident is within the Casino Precinct, as this is likely impractical and unnecessary.</p>
Current: 51 Proposed: 46	Gaming equipment	<p>Crown submits that it is appropriate to reconsider the necessity for this Regulation (which requires notifications regarding the delivery of specified equipment within 24 hours) when dealing with experienced Casino Operators.</p> <p>The requirement to provide to the Authority advance notice and details of the delivery of prescribed types of gaming equipment is unnecessary and burdensome for the Casino Operator.</p> <p>The integrity of gaming equipment comes from its initial approval, Accredited Testing Facility Reports (where relevant) and supply of the equipment from approved reputable companies (with all necessary checks carried out prior to purchase). Further, this provision was entered into the Regulations at a time when Inspectors of the Regulator were on-site 24 hours a day – this is no longer the case and this provision should be subject to modernisation in the same way.</p>
66 of Sch. 6	Appointment of Managers	<p>Section 66 of Schedule 6 of the Regulations provides that a licensee must appoint a manager approved by the Authority and such licensee must not cause or permit the business to be conducted for a period of more than 28 days except under the personal supervision and management of the manager so approved.</p> <p>Crown proposes that more than one manager be approved (or at least provide for each manager to have an alternative). This will ensure that in the event of staff changes (i.e. resignation or termination of employment), there will be no risk of a technical breach of this provision, whilst a replacement is recruited and undertakes probity. Further, an alternate will ensure that extended periods of leave (for</p>

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		example, long service leave) can be adequately covered. The proposed amendment also accounts for the scale and 24/7 operation of the Casinos, as opposed to other liquor licensed venues.
79 of Sch. 6	Making of complaint	<p>Crown submits that the threshold for making complaints is unreasonably low. There are sufficient operational restrictions, reporting requirements and disciplinary/ discretionary powers existing within current legislation to ensure suitable and appropriate sale of liquor measures.</p> <p>Increasing the minimum threshold reduces the serious potential consequences to the operations of the Casino Operator, including imposition of conditions on the Casino Operator's licence, or even closure of the premises under s 84. Further, Crown submits that an increase in the threshold would properly represent the scale and mixed use of the Casinos.</p>
2 of Sch. 7	Calculation of fee unit for purpose of Regulation	The fee of \$1,000 per employee licence appears high from a cost recovery perspective. A cost recovery analysis for a Casino Employee Licence undertaken by the Regulator in Victoria resulted in employee licence fees being reduced from approximately \$300 to approximately \$75 per licence.