

# **STAR CITY INQUIRY**

## **PUBLIC HEARING**

**31 AUGUST 2000**

I am sitting today in public for a number of reasons. Since the Inquiry began there has been considerable speculation about its processes and the progress it has made. In addition the Parliament has been undertaking its own inquiries which have received considerable publicity. It is inevitable that there will be speculation about various matters and in these circumstances I have come to the view that as far as possible the public should be aware of how the investigation is proceeding and the progress it has made.

Any review of a licence granted by government to conduct a large enterprise such as the Casino should, as far as possible, be undertaken without secrecy so that public confidence in the outcome can be maintained. There are also a number of matters which have arisen during the inquiry and which I will discuss today about which I would welcome submissions from interested persons or organisations.

In a moment I shall ask Ms Furness to outline the process which has been undertaken by the inquiry so far.

However, before I call on her there are some important matters which I should mention. Many are not new but a review of them may assist the general understanding of the inquiry process.

Most people will be aware that the decision by Government to provide a lawful casino in Sydney was surrounded by controversy. Much of that controversy came because of the history of casinos in other places, particularly the United States, which suggested that they have a potential to attract undesirable patrons and may become the target for criminal activity. It was recognized that any activity involving the gambling of significant sums of money, will be attractive to people who may wish to engage in undesirable or inappropriate behavior.

For this reason before the proposed casino legislation was enacted by the Parliament, Sir Lawrence Street was asked to look at the matter and report on the Establishment and Operation of Legal Casinos. He reported in November 1991 at which time two casinos were proposed. In the preface to the Report Sir Lawrence said:

“The introduction of casinos is feared on criminological grounds. Provided that three requirements are met, these fears can be placed aside.

The three requirements are:

- The selection of an operator whose integrity and commitment to preserving a crime – free environment in, and in relation to, the casino are assured;
- The formulation of a comprehensive regulatory structure for the operation of the casino; and
- The diligent enforcement of that regulatory structure.”

It can be seen from these remarks that Sir Lawrence placed considerable stress on the role of the operator in managing activity in the Casino. The operator must accept primary responsibility for these activities and the conduct of its patrons as well as for other matters which it can control.

The legislation which regulates the Casino created the Casino Control Authority which is an independent statutory body. It has functions which include supervision of the holder of the casino licence, its employees and contractors and has been provided with a small staff to assist in these matters. It is also supported by, although it does not have direct responsibility for, the Director of Casino Surveillance and his staff of Inspectors. The Director is part of the Department of Gaming and Racing.

The express functions of the Director include the supervision of the gaming and the control of money within the casino. Although not clearly spelt out in the legislation it is plain that it was intended that the Authority, with the assistance of the Director, should be responsible for regulating the casino in all of its activities.

In my earlier report as part of the 1997 triennial review of the Casino, I recommended that consideration be given to changing the relationship between the Director and the Authority. The reason for the separation of the two bodies is found in the Street report. With the practical experience now available I have come to the view that control of the Casino will be more effective if the Authority has responsibility for the Director and his inspectors.

Sir Lawrence Street considered the regulatory structure for the proposed casinos in his report having particular regard to criminal issues. He recognized the need for an adequately resourced regulator with a constant presence in the Casino. He reinforced the need for the Authority to exist free of political and industry pressures. He concluded that “skilled management, reinforced by rigorous inspectorial supervision, will negate

the risk of criminal exploitation; and opportunities for dishonesty in the conduct of gaming”.

Addressing the potential problem of money laundering Sir Lawrence noted that it was unlikely that money laundering in the sense of the Vienna Convention’s definition ie “the conversion or transfer of property for the purpose of concealing or disguising the illicit origin of the property” would occur at the Casino. However money laundering in the sense of disposing of the proceeds of crime, a definition common to law enforcement agencies was also considered. Setting a benchmark for the future conduct of the Casino Sir Lawrence Street said:

“Prevention of the disposal of proceeds of criminal activity or money from the underground cash economy being used to gamble

Statutory offences aimed at the disposal of proceeds of criminal activity already exist. The Confiscation of Proceeds of Crime Act 1989 (NSW) creates an offence of money laundering, (widely defined to include knowingly dealing in money or property or proceeds of a serious offence), with significant penalties of fines or imprisonment. Under the Proceeds of Crime Act 1987(Cth), it is an offence to engage in the laundering of funds (similarly widely defined) derived from the offences against the laws of the Commonwealth or the Territories of Australia.

Although the disposal of proceeds of criminal activity is presented as a specific topic, the real matter of concern is that the collateral activities of criminals who resort to casinos for recreation and amusement could present a risk of compromising the integrity of the gambling operations of the casino. Strict enforcement of the regulatory code and vigilance on the part of the inspectorate should be adequate to protect against this risk.”

It is important to understand that the approach adopted by Sir Lawrence Street to excluding criminals from the Casino is not the view adopted in all other states. In some states, provided patrons’ behaviour within the casino is acceptable, they will not be excluded, even if believed to be

gambling the proceeds of crime or known to be a criminal or an associate of criminals. This is the attitude in Victoria although Western Australia has adopted the Street approach.

It is obvious that a fundamental conflict exists. People prepared to gamble significant sums are attractive customers for a Casino even if their money is sourced from criminal activity. Notwithstanding this conflict, the Sydney Casino came into being after acceptance of the principles of the Street report. This must mean that persons known or reasonably believed to be engaged in criminal activity or whose source of funds are reasonably believed to come from criminal ventures should be excluded from the Casino. It is fundamental that the police be an integral part of the process.

It is plain that there is a need for a national approach to this issue if Casino gaming is to be free of the possibility of criminal influence. It must be obvious that unless all the states share a common approach exclusion from one casino may lead to a concentration of criminal elements at another. The significance of the matter should not be underestimated. I understand that the issue has been and is on the agenda of the Australian Police Ministers' Council. I have also noted that the Auditor General's Performance Audit on Casino Surveillance of June

1998 recognised the need for a national approach to exclusion orders. Exclusion from a racetrack in one state brings automatic exclusion in another. It is difficult to see why Casino gaming should be any different.

In my earlier report I expressed the view that there were appropriate mechanisms in place to deal with the possibility of money laundering at the Casino including the gambling of the proceeds of crime. My opinion was formed having regard to the evidence which was available at the time. In the course of the present investigation I have reviewed these mechanisms and have come to the view that some changes are necessary. I will outline my current thinking later and indicate that I would appreciate submissions on these matters from any person.

In an endeavour to ensure that the casino operates effectively and appropriately, the Casino Control Act places great emphasis on the integrity and capacity of the licensee, not only when first granted a licence, but on a continuing basis. It is for this reason that s.31 of the Act provides for the Authority to form an opinion about two fundamental matters at least every three years. The matters justify repetition being “whether or not:

- (a) the casino operator is a suitable person to continue to give effect to the casino licence and the Act, and

(b) it is in the public interest that the casino licence should continue in force.”

It is of course to assist the Authority in addressing these questions that I was engaged by it to hold an inquiry. The terms of reference for the inquiry have been widely circulated.

As has been recently published, I have been requested by the Premier to advise as to the adequacy of the current regulatory legislation for the Casino and its administration. As with the matter of money laundering I have formulated some proposals for change in this area which I will discuss later this morning. I stress that the proposals are not yet final although I have consulted widely in relation to them. I would welcome submissions from any person on any aspect of these matters. If changes are made, their purpose must be to strengthen the regulation of the Casino and minimize, as far as possible, activities by criminals.

Now Ms Furness could you report on the progress of the investigation to date:

## **Ms Furness**

Since the inquiry commenced on 19 May 2000, a number of private hearings have been held, submissions from the public have been received as have documents from the casino, the Director of Casino Surveillance, the Casino Control Authority, interstate and overseas agencies and others. Meetings have been held with law enforcement agencies, visits have been made to other casinos within Australia, and research has been conducted.

Before discussing the details of the information sought and received by the inquiry thus far, it may be useful, sir, to briefly outline the operations of Star City casino.

Star City opened its doors at its permanent site in Pyrmont on 26 November 1997. The complex consists of a 352-room hotel and 139 apartment building with convention and meeting facilities for 900, the Lyric theatre and the Showroom and a number of bars and restaurants and shopping facilities.

The casino itself has a main gaming floor with 1500 poker or slot machines and 165 gaming tables. The games played include roulette, baccarat, black jack and Caribbean stud.

The private gaming rooms consist of the Endeavour Room and 3 smaller rooms. There are 45 gaming tables in the Endeavour Room with 2 each in each of the smaller rooms. Membership of the Endeavour Room is at the discretion of the management of the casino and is based on level of play. A player must usually have an average bet of \$75-100 and play for 30 to 40 hours per month to gain and retain membership to the Endeavour Room. Different requirements may exist for international players and those with memberships of equivalent rooms in other casinos.

Members are entitled to bring visitors to the Endeavour Room where a dress code and behavioural standards apply.

The casino operates junkets which are arrangements for the promotion of gaming in the casino by groups of international players. They usually involve transport, accommodation, food, drink and entertainment for the junket players, some or all of which are paid for by the casino or are otherwise provided on a complimentary basis. A different tax arrangement exists in relation to such activities.

Before I turn to the evidence given, I will briefly refer to some of the more significant provisions in the statute. Sections 79 and 81 of the Casino Control Act permit the casino operator, the Director of Casino

Surveillance, and the Police Commissioner to each exclude a person from the casino. An appeal lies to the Casino Control Authority from exclusion by the Director or casino operator. No appeal lies from exclusion by the Police Commissioner. There is also provision for a patron to request the casino operator to exclude them, known as self-exclusions. The person who made the order may revoke an order excluding a patron.

Since January 1, 1998, there have been 587 patrons who have been excluded at their own request. Of these orders, the Casino Control Authority or the casino operator has subsequently revoked 106.

In that time period, the casino operator has excluded 649 people. The main reasons for exclusion include theft, cheating and abusive or indecent behaviour. In June this year, the casino excluded 9 members of the Endeavour Room for conduct unacceptable to senior management. This is the only occasion on which such a reason has been given for exclusion by the Casino.

In the last 2<sup>1/2</sup> years the casino has revoked 400 exclusions, and the authority 50 exclusions.

Since January 1998 the NSW Police Commissioner has excluded 21 persons primarily for known or suspected loan sharking, involvement in illegal drug matters, extortion, convictions for serious criminal offences and the suspected organised importation of prostitutes from Asia. None of these orders has been revoked.

The Director of Casino Surveillance has excluded 2 people, a husband and wife, in circumstances where the wife was addicted to gambling.

Turning to the evidence and other information received, I advise as follows:

First, in relation to the hearings, evidence has been taken from almost 30 current staff of the casino operator. These staff members work in the private gaming rooms and on the main gaming floor and in VIP services, surveillance, table games, investigations, security and other divisions of the casino.

Former staff of the casino and current inspectors employed by the Director of Casino Surveillance have given evidence. In addition, current and former patrons of the private gaming rooms, including patrons who have been excluded by the Police Commissioner and by the Casino have

given evidence. Others with an association with the casino have also given evidence.

All of the hearings have been recorded and have been conducted in private. To protect the confidentiality of the evidence given, no copies of transcripts have been provided to witnesses, at this stage.

Secondly, submissions were initially called for in December 1999 and then again in June 2000. 52 submissions were received by March 2000 from individuals and groups including suppliers and contractors to the casino, the tourism industry, NSW clubs, gambling and counselling services and others with an interest in the gaming industry. In July 2000 three additional submissions were received. They mainly concerned the issue of problem gaming.

Most of the submissions are supportive of the operations of the casino and are authored by those who contract to the casino.

Thirdly, the inquiry has received a deal of documents, information and other material from the casino operator. In July 2000 the casino provided, among other matters, details of those it had excluded from the casino and provided its knowledge of money laundering, drug dealing, soliciting for

the purposes of prostitution and money lending/loan sharking occurring within the casino. The casino also provided information on the issue of patrons gambling while intoxicated.

The policies and procedures by which the Endeavour Room operates were also provided, along with details of complaints received by the casino from staff and patrons.

Among the voluminous material which the casino provided, were copies of records of interviews conducted by the casino's investigator with over 70 members of staff. These interviews followed the airing of allegations on the ABC's Four Corners on 24 April 2000 and centered upon staff's knowledge of soliciting, loan sharking and intoxicated patrons.

Much of this material is still being analysed.

Fourthly, the Director of Casino Surveillance has provided details of his knowledge of criminal and other undesirable activity within the casino as well as details of those he has excluded from the casino and other matters.

Fifthly, the inquiry has benefited from a number of meetings with law enforcement agencies. The NSW Police Service has provided details of

its exclusion policy and procedure and the names of and reasons for people the Police Commissioner has excluded. The inquiry has also liaised closely with the Task Force established by the NSW Police to deal with aspects of the allegations aired by Four Corners. That Task Force has not yet completed its work.

The NSW Crime Commission, the Australian Federal Police and the National Crime Authority have advised us of each of their concerns in relation to the casino and crime.

All law enforcement agencies have commented favourably on the level of co-operation by the casino with law enforcement requests.

AUSTRAC, the federal agency with responsibility for the administration of the financial transactions reports legislation has informed us of its involvement with the movement of money in the casino and issues it has. The casino is obviously an environment where there are significant cash transactions daily.

Sixthly, the inquiry has visited Melbourne, during which discussions were held with the Victorian Casino and Gaming Authority and with representatives from Crown Casino. Of note, is that the Victorian

regulatory regime includes a small police squad on site in the casino and a senior police officer, usually an Assistant Police Commissioner on the Board of the Authority. All concerned perceived the presence of the police on site as positive.

The Burswood casino in Perth was visited last week. Discussions were held with the Office of Liquor, Racing and Gaming, law enforcement agencies, including the supervisor of the casino police unit and representatives of the casino. As with Victoria, a police squad is attached to the casino, although it is not on site. One notable feature of Perth's operation is the fact that the Director of Security with the casino holds the licence for the purposes of the liquor licensing laws. This arrangement provides incentives for management at an operational level to ensure compliance with the licencees' obligations.

That is the progress of the inquiry thus far.

## **Mr McClellan**

When I sat publicly on the previous occasion I indicated that I proposed to progress the investigation, at least initially, in private. I took this course because I was conscious of the commercially sensitive information which I might receive and because the evidence may relate to alleged criminal activity. I was also concerned that information which may be no more than unfounded rumour should not be exposed to public gaze.

I have now heard the sworn testimony of a number of people. I will set out in a moment the general nature of the allegations which some witnesses have made. The allegations mainly concern activities in the Endeavour Room. It is important to stress that not everyone associated with the Casino who I have so far heard from has suggested that they have observed inappropriate activity at the Casino. Many people say they have not.

However one matter is plain. Although some people have been willing to detail their evidence to me in public, and indeed some have spoken on television, radio and to the newspapers, most of those who have provided evidence to me are unwilling to repeat the evidence in public. Many express a fear for their safety from persons they have named, a fear which

I accept is genuinely held. The allegations include the names of suspected or known criminals, including some involved with drugs, prostitution and money lending including loan sharking. The names of others engaged in undesirable but not illegal activity have also been given. It would not be responsible to publish details which include the names of either the witnesses or those who they may have identified in their testimony.

I should also make plain that the outcome of my investigation does not depend on a judgement as to whether any person has, beyond reasonable doubt, committed an offence or engaged in criminal activity. I must of course consider and form a view as to whether illegal or undesirable activity occurs in or is associated with the Casino. However this is for the purpose of assessing one of many matters relevant to the question of the suitability of Star City to hold the licence and the public interest in the licence continuing. For this purpose it is not necessary to call the various witnesses to repeat their evidence in public. To do so would raise issues as to the reputation of persons not directly involved in the process and would almost certainly divert the inquiry from its true purpose. Although it is fundamental to the inquiry to establish a clear understanding of activity at the casino it is equally fundamental that I examine the corporate culture, management structure, management process and effectiveness of Star City in dealing with any potential problems. I

understand that Star City has already commenced a review of the procedures in the Endeavour Room.

As far as the evidence which I have gathered is concerned, I should indicate that although Star City is aware of the nature of the allegations, it has not yet been informed of its detail. The casino has not been present at any private hearing and has not been represented. I propose to give Star City access to relevant transcripts following today's hearing. However Star City has, as Ms Furness has indicated, been required to answer various questions in writing which extend to its knowledge of criminal or undesirable activity. I am also aware that Star City has engaged a former Supreme Court judge to investigate the allegations raised in the Four Corners program. This report is expected in a couple of weeks and will be provided to me.

At present the evidence I have received should be understood as allegations which I may accept or reject in my report to the Authority. I will review the material together with any further material I receive from Star City and others before publishing a final report. I should also stress that even if the allegations which I have received are true, this would not necessarily mean that either of the questions as to the future of the casino licence should be answered in the negative. However management and

regulatory processes will need to be carefully reviewed to ensure that if problems exist, they can be effectively dealt with.

After today's hearing I shall sit in private to obtain further evidence and to allow Star City to put material before me in response to the matters raised in the transcripts. This will allow the full range of allegations including the relevant names to be considered and discussed without increasing the risk to the safety of any person.

Following that process I will consider whether it is appropriate to hold further public hearings.

Turning to the allegations in the evidence I have received, the following is a summary of relevant matters:

- I have taken steps to check the criminal history and obtain the views of the law enforcement agencies of many of the larger players at the casino. The response leads inevitably to the conclusion that a significant number of the major gamblers at Star City are either convicted criminals or are reasonably suspected of serious criminal activity. The funds with which many of these people gamble are believed by law enforcement agencies to be the proceeds of criminal

activities. Of course, a number of the major gamblers are not resident in Australia.

- In relation to money lending, there is surveillance and other evidence of loan sharks regularly being present and doing business in the Endeavour Room. Staff have told me that they have been told by patrons that they have lent or borrowed money with interest payable on the transaction.
- In relation to money laundering, as defined by the Vienna Convention, there is little suggestion of it having occurred. However I have been told of potential gaps in the system of recording cash transactions which I intend to follow up with the Casino and the relevant authorities.
- I have received many allegations of patrons gambling while intoxicated at the casino, particularly in the Endeavour Room. Some patrons have told me of being intoxicated but not having their access to drinks restricted or being stopped from playing.
- Prostitutes and those who organise for them, I am told, frequent the high roller room of the casino and offer their services to patrons.

- There is only limited evidence which suggests that drugs are being used or sold in the casino.
- There is also evidence of allegations of sexual harassment of staff in the Endeavour Room both by patrons and other staff which has been reported to management.

I previously indicated that Star City has been asked to respond in writing in relation to various issues. In general it has stated that because of the surveillance processes in place at the casino “it defies logic to suggest that Star City is a target for criminal activity”. It has stated that it does not want criminal behavior on its premises and does not tolerate it.

- With respect to money laundering it says that the measures in place to detect and report any incidents are second to none. In the past twelve months it has reported 250 cash transactions which it viewed as suspicious and almost 18,000 reports of significant cash transactions.

- Star City responded to questions in relation to prostitution by indicating that it is not tolerated or condoned. No complaint of prostitution has been received by the Casino. It is considered to be an undesirable activity with no place in the casino. There are records of some incidents where some action has been taken with respect to prostitution.
- In relation to criminal activity Star City says it moves quickly if it is suspected that criminals are using the complex as a “meeting place” and states that one of its main aims is to provide a safe and secure environment for its patrons. Star City accepts that patrons with undesirable backgrounds should not be in the Casino.
- Gambling the proceeds of crime was also the subject of a response from Star City. It indicates (not unreasonably) that it is not feasible to require patrons to provide details of the source of their income. It says that it must rely upon other authorities to exercise their powers to exclude undesirable people. Importantly Star City has confirmed that it has no desire to see the proceeds of crime gambled at the casino.

- With respect to the intoxication of players Star City states that there have been 80 incidents over the last 2 ½ years of gamblers approaching intoxication. In each case the person has been asked to leave or has been escorted from the premises. Anyone suspected of becoming intoxicated is asked to leave the casino for 24 hours.
- I have also been provided with Star City's knowledge of drug related activity actually within the casino. It reveals a limited number of apparently isolated events where patrons may have been using illegal substances.
- With respect to the allegations of loan sharking at the casino, Star City says that while reports surface from time to time of suspected loan sharking, inevitably anecdotal information rather than firm evidence is available. It has no knowledge of specific transactions. It believes the activity, while hard to detect, is most undesirable and has no place in the casino.

It will be apparent from my earlier remarks that I have received evidence which contains allegations that soliciting for the purpose of prostitution and the lending of money with the payment of exorbitant interest occurs in the Endeavour Room of the casino. In addition, the information

available to the Inquiry from various law enforcement sources is that a significant number of the largest gamblers in the Endeavour Room are known or suspected criminals, most of whom are likely to be gambling the proceeds of crime.

The allegations have of course to be further examined before conclusions are drawn but raise the question of whether the current regulatory regime is appropriate and adequately resourced to detect and deal with those matters in the day to day activities of the regulators.

Although in my 1997 report I concluded that the regulatory regime already in place was generally adequate, I expressed concern about the separation of the Director of Casino Surveillance and the Authority. My previous concern was to ensure effective management of the Director of Casino Surveillance resource.

The material now available to me tends to confirm my previous view that change to the regulatory structure is necessary. The Authority in discharging its obligations relies largely on the observations of and the information from the Director of Casino Surveillance. Because of the present regulatory structure the Authority does not have effective control over the manner in which the Director of Casino Surveillance carries out

its functions. I also note that duplication of effort by the Director of Casino Surveillance and Casino Control Authority was recognised as a problem with the present structure in the 1998 Audit report referred to earlier.

In my view the activities undertaken by the Director of Casino Surveillance should be sourced from the Authority rather than the Department, as is the present case. This will require legislative change but should ensure that the Authority has access to and management responsibility for the resources necessary for it to be able to control activity at the Casino. It should be made plain that apart from ensuring the integrity of gaming, the Authority, in conjunction with the police, should be responsible for and have the resources to ensure known criminals or persons reasonably suspected of being criminals are excluded from the Casino. So far as possible the proceeds of crime should not be gambled at the Casino.

I am also of the view that it may be appropriate to change some aspects of the Authority. Firstly I believe there should be a police presence on the Authority's Board so as to ensure effective police input into the Board's decisions and appropriate exchange of information. This approach appears to function effectively in Victoria where it ensures co-operation

between the Authority and the police in the exchange of information. It acknowledges the legitimate role of the police in ensuring the Casino is free from criminal influence.

There are questions as to the appropriateness of the current reporting structure of the Authority. The difficulty is to ensure appropriate accountability of the Authority without unnecessarily politicising the issues or inhibiting the flow of information to it from other regulatory or law enforcement agencies. I have commenced discussions on these matters with a number of persons but whether changes are necessary, and if so what form they should take, needs further discussion.

To better facilitate the detection of soliciting, money lending/loan sharking and any associated violence, the presence of the police within the casino appears to be necessary. Similarly, in order to determine whether patrons are known or suspected to be criminals and are likely to be gambling the proceeds of crime, direct police involvement is required. As I have indicated this is the position in Victoria and Western Australia.

There are a number of ways to structure a police presence. I have not yet had the opportunity of exploring them with all relevant bodies but will do so in the coming weeks.

As I have said the inquiry still has many tasks to undertake. However I would welcome submissions on the matters I have raised today and invite any person with further information which may be of assistance to the Inquiry to come forward.