



## **Literature Review**

### **Assignment Title**

The Victorian Royal Commission into Crown Resorts Casino Operations and License.

An investigation of the expanded oversight of the Non-Financial (*ESG*) Governance Risks, their impacts and treatment of such risk.

### **Discipline**

Corporate Governance

### **Theme**

Environment, Social, Governance Risk Management

Word count: 1641

## **1. Purpose**

With changing community attitudes, millenniumism, member concerns and shareholder activism, Board Governance risks have now expanded to a broad range of other emerged risks, and responsible investment called Environmental Social Governance (ESG) Risk (Bertolotti, 2020). Risks include but are not limited to a firm's collective conscientiousness and responsibility for environmental and social factors such as climate change, social responsibility, diversity, equal opportunity, human slavery and money laundering (Frankl.M., 2016).

The Honorable Ray Finkelstein AO QC, Commissioner and Chairperson of the Royal Commission into the Casino Operator and Licence held by Crown ("Crown") Resorts Limited recently presented the commission's report (Ray Finkelstein, 2021). The report addressed Crown's failure to adequately address non-financial risk (*Money Laundering*).

The purpose of this Literature Review is to focus on ESG risk of money laundering in the Casino industry (McMillan.J, 2015), focusing on Crown Resorts' failures to address this risk and provide recommendations to treat this type of risk in the future.

## **2. Research Methodology**

In preparation of the examination and analysis the writer undertook research using a wide range of methodology. In gaining an overall summary of changing community attitudes, activism, communication, and the seriousness of complaint regarding the situation, available media articles and social media were reviewed as a qualitative approach, a summary of which is outlined in Schedule 2.

Official Publications or Statutory Reports such as The Commission of Enquiry report (Ray Finkelstein, 2021) and the Commission of Enquiry (Bergin, 2021) reports provided comprehensive and extensive information regarding the Crown problem. This material, along with media and social media publications, contextualized the problem or social risk of money laundering within the discipline and/or subject context.

The Crown matter was reported in Australian State and Federal Government parliaments on a number of occasions as reported in Australian Parliamentary reports (Hansard, 2021) providing relevant topic research. The literature provided a clear picture of the nature of concern regarding the problem.

In evaluating Crown's history and position, all of Crown's published reports were reviewed (Crown Resorts Limited, 2021). This included its historical financial reports, and other specific reports relating to its position regarding Board and Management failures, Money Laundering, Risk Management, Compliance ESG and Corporate Governance.

A number of textbooks, book sections, peer reviewed journal articles, reports, industry, and discipline bases sources were identified as addressing the main theme of the topic and providing an understanding of the general terms and Casino specific topics such as Board and Management failures, Money Laundering, Risk Management, Compliance, ESG and Corporate Governance.

Money Laundering is a criminal offence covered by various state and federal legislation (Documents, 2003). Similar prosecuted cases and the conditions of Crown's Casino License under the provisions of the (Victorian Parliament, 1991) was reviewed. This included a review of the relevant standards or guidelines; such were well documented in the Royal Commissions report (Ray Finkelstein, 2021).

An attempt was undertaken to benchmark Crowns' results with other operators or industry standards.

Of relevance is the change in community standards requiring reviews of shareholder activism and filed civil litigation, (Greg Lieberman -v- Crown Resorts Limited ACN: 125 709 953, 2021) including other like cases were very relevant sources of literature; such sources clearly particularizing failures and resulting damages. This was apparent in the case against the Commonwealth Banking Corporation prosecuted by Government Agency, Austrac, (Austrac, 2021) and Westpac Banking Corporation (Austrac, 2021).

The financial impact of an ESG risk such as Money Laundering is clearly reflected in the value of Crown. As a result, financial and market quantitative data was sourced, from (Morning Star, 2021) reviewed and analysed.

In order to provide recommendations as to treatment processes a wide range of literature was reviewed including books, book sections, journals, Commission of enquiry reports, Court Filings, Authority reports has as recommendations of the Australian Security Exchange ( ASX Corporate Governance Council, 2019), Australian Security and Investments Commission Regulator Performance Framework (Australian Securities and Investment Commission, 2021) (Organisation for Economic Cooperation and Development, 2001) and Consultants' reports.

Using ESG filters and Metric scores, analysts attempt to create scoring to analyse the effect of ESG upon business. An analysis was also undertaken of industry risk professionals' methodology including a review of literature by (Mozaffar Khan, 2019) and other like-minded professionals.

### 3. Literature Review

3.1 Environmental, Social and Governance Risks (ESG) are defined by ( ASX Corporate Governance Council, 2019). (Anna Dziadkowiec, 2021) advocates that ESG factors in investing are aimed at generating positive and or reducing negative social outcomes and is now reflected in the value of sustainable investments, which reached \$30.7 trillion globally in 2018, representing a 34 % increase compared to 2016. Increased in ESG investment are cited by (Kejriwal, 2021) and (James J. Tucker III, 2020). (Muhammad, 2021) at Page 64 states that *“The performance of companies in meeting their ESG obligations is deemed important in meeting their sustainability agenda.”* (Hodge, 2021 ) emphasises that ESG is no longer a soft investment, and that market demand and regulatory guidance has escalated so quickly that investors are demanding such of CEOs to secure investment. This position is endorsed by many authors including (Ryann Marotta, 2021) and (Diller, et al., 2021) which emphasises the power of stakeholders.

(LeBlanc, 2016) provides a comprehensive guide of the requirements of board governance as does (Seifi. S, 2017). High levels of Corporate Governance by boards are required to address ESG risk to avoid shareholder divesting and reduced stock value. (Leopold Djoutsa Wamba, 2018) cited this in research to explore the impact of the mechanisms of corporate governance on the volatility of companies' financial profitability. Importantly in the view of the writer, (Stafford, 2019) cites the use of tracking software as an important component of Board Governance in the Digital Age. (Seifi, 2018) promotes the correlation between corporate legitimacy and environment and social governance. This is further supported by (Dorobantu, 2018) who cites the need for environmental and social governance for sustainability and integrated with product market competition (Siti Nurain Muhammad, 2021).

31000:2018 (International Standards Organisation, 2021) provide boards and business with the recognized standards of Risk Management. (Bertolotti, 2020) cites the use of data metrics to identify, analyse and evaluate risk, whilst supporting such, (Wolke, 2017) provides extensive Risk Analysis scoring techniques via quantitative and qualitative analysis to identify risk and control or treatment methodology. The theory of stress testing current risk analysis and treatment systems is cited in (Chakraborty, 2021). Independent analysis often identifies left field risks. (*Risks that are not often identified. e.g., COVID-19 Pandemic, types of opportunist frauds.*)

At the heart of the Crown problem is Money Laundering, a criminal offence and prohibited activity as defined in The Casino Control Act 1991, The Casino (Management Agreement) Act 1993 and the Victorian Crimes Act 1958. (Ray Finkelstein, 2021) at page 80 states "*Money laundering is the process of legitimising proceeds of crime.*" (Frankl, 2016) provides a number of strategies for the prevention of money laundering. (Ferwerda.J, 2018) provides detailed commentary regarding Money Laundering, Risk Assessment. Principal component analysis and Organised Crime, and (Jagdish Pathak, 2019) provides theory on a range of money laundering criteria and associated subjects. The adequacy of Australia's Anti Money Laundering Regime was examined by the Commonwealth of Australia Senate Review Committee this year. (Commonwealth of Australia Senate Committee, 2021)

Worldwide, casinos present as high-risk money laundering targets. A range of issues are well documented by (Murphy. C, 2013). The study addresses a range of risks including but not limited to the link between casinos and Crime and or criminal figures, high use of cash, deference towards patrons, operator agency conflict, quantitative and qualitative measurement analysis, suspicious transactions, money laundering and prosecutions. The concepts are endorsed by (McMillen.J, 2000) and (Kleiman. K.E, 2021).

Crowns' own reports (Crown Resorts Limited, 2021) provide financial information and Crown's position regarding a wide range of ESG risk, including Money Laundering, Corporate Governance, Compliance and Modern Slavery. (Ray Finkelstein, 2021) later reported that Crown did not adhere to the required standards of a high risk such Money Laundering, breaching its licensing obligations. The allegations made against Crown presented a wide range of literature. Schedule 2 provides an extensive summary of the allegations which were aired publicly. The allegations were raised and complained about a number of times in the Victorian and Federal Parliament (Office Hansard, 2020), (House of Representatives Proof Committees , 2021), (Office Hansard, 2021).

Investigations into Crown allegations were made by media agencies (See summary at Schedule 2), The Victorian, New South Wales and Australian Federal Government and Commission of Enquiries were appointed. (Ray Finkelstein, 2021) and (Bergin, 2021). A number of Australian legal firms launched their own investigations into the allegations and associated damages. As a result of such investigations shareholder activism commenced with the filing of a number of legal actions. In a class action filed in the Victorian Supreme Court by legal firm Maurice Blackburn lawyers (Greg Lieberman -v-

Crown Resorts Limited ACN: 125 709 953, 2021) the statement of claim addresses issues such as Crown's dealings with Junket operators, which goes to the heart of the allegations, Crown's legal responsibility, Crowns representations to the market, Misrepresentation by Crown to the market, offshore deposits, and amongst other relevant issues Crowns knowledge of its participation in money laundering, knowledge, deficiencies, failures, contravening conduct, and ultimate loss of shareholder equity, including conduct which was contrary to shareholder interests.

The loss to shareholders and Crown's value is currently disputed and before the courts. According to (Morning Star, 2021) Crown's performance over 1, 3, 5, and 10 years to November 10, 2021, however, is clear. Crowns Resorts (CWN) has badly underperformed the market, due to its scandals. Total shareholder return = Crowns' capital growth + dividends has declined over 3 years in strongly rising market. Crown had a peak valuation of \$11.3 billion in FY14. It was worth \$8 billion at the end of FY21. Over \$3.3 billion has been wiped from its market cap. Crown CEO Ken Barton was forced to resign because of the Money Laundering Scandal. Similar situations are occurring with rival, Start Entertainment which had a peak valuation of \$4.5billion in FY18 however is now worth \$4.5 billion in FY21 because of money laundering allegations. Star Entertainment Group's shares ended trade 23% lower on the day after the 60 minutes allegations surfaced (www.bbc.com, 2021)

Evidence that Crown was using metrics to measure its risk management performance with respect to money laundering is difficult to identify. There are monitoring software options for management and boards. Some examples in include Sword GRC and or those recommended by [www.capterra.com](http://www.capterra.com). The writer adopts that position that Crown should develop its only risk management software customised to its specific risks, by subscribing to theories promoted to measure risk by (Duque-Grisales. E, 2019), and development of ESG ratings by (Clementino. E, 2019).

**4. Schedule 1: Internet Removals - Organisational Authority**

See: <https://covertserver.box.com/s/mxq5puye5cjz98e16z68w5y8fxp5zxfv>

**5. Schedule 2: Crown Money Laundering Allegations – Internet Removals Summary of links to online Media articles:**

See: <https://covertserver.box.com/s/26ck8r33skedfi927bx2t971wl67g52l>

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