

Decision and reasons for decision

In the matter of an application under section 3.4.7(1)(b) of the *Gambling Regulation Act 2003* (Vic) by DG Hotel Pty Ltd to amend its venue operator's licence to vary the number of electronic gaming machines at the approved premises, Dorset Gardens Hotel, located at 335 Dorset Road, Croydon VIC 3136 from 97 to 105.

Commission	Andrew Scott, Deputy Chair (presiding) Claire Miller, Commissioner
Date of hearing	2 and 3 February 2026
Date of decision	5 March 2026
Date of reasons	5 March 2026
Appearances	Georgie Coleman as counsel assisting the Commission, instructed by the VGCCC Daniel Robinson for the Applicant, instructed by BSP Lawyers
Decision	The application is granted subject to the conditions set out in Appendix B
Signed	
	Andrew Scott
	Presiding Chair

Introduction

- 1) DG Hotel Pty Ltd (the **Applicant**) is the holder of venue operator's licence V06095993 (**Licence**) for Dorset Gardens Hotel, located at 335 Dorset Road, Croydon, Victoria 3136 (**Premises**), located in the City of Maroondah.

The Application

- 2) On 29 September 2025, the Applicant made a request to the Victorian Gambling and Casino Control Commission (the **Commission**), in accordance with s 3.4.18(1) of the *Gambling Regulation Act 2003* (Vic) (the **GR Act**), for an amendment to its Licence to increase the number of electronic gaming machines (**EGMs**) operating at the Premises from 97 to 105 (the **Application**).
- 3) The Maroondah City Council (**Council**) was notified of the Application, and on 5 January 2026 the Council made a submission in accordance with s 3.4.19 of the GR Act.
- 4) The Commission conducted a public inquiry, for the purposes of determining the Application, on 2 and 3 February 2026. The Council elected not to appear.
- 5) The Commission has decided to make the amendment to the Licence, subject to the conditions set out in Appendix B.
- 6) The reasons for this decision are set out below.

Legislation and the Commission's task

The Commission's mandated objectives and the main objectives of the GR Act

- 7) Gambling is a legal activity and many participants experience it without suffering from harm. However, others do suffer harm from gambling. Minimising harm caused by gambling is central to the Commission's functions.¹ Reducing gambling harm experienced by patrons of gambling businesses is also a key objective of the Commission in maintaining and administering systems for the licensing, supervision and control of gambling businesses, including the gaming business operated by the Applicant.² Fostering responsible gambling and minimising harm caused by gambling is also a relevant factor for the Commission to consider in its discretion to refuse this Application, or to grant the Application with conditions (as set out further below in paragraph 10).

Relevant considerations under the GR Act

- 8) In relation to this Application, the Commission is required to decide whether to make the amendment proposed by the Applicant, either with or without changes from that originally proposed, and notify the Applicant of its decision.³ The Commission is to

¹ *Victorian Gambling and Casino Control Commission Act 2011* (Vic) (**VGCCC Act**), s 8A(b).

² VGCCC Act, s 8A(a)(iii).

³ GR Act, s 3.4.20(2).

determine the Application in accordance with the relevant provisions of the GR Act (particularly Chapter 3, Part 4 – Div 2⁴) and the VGCCC Act.

- 9) The GR Act provides that the Commission must not amend the Licence unless the Commission is satisfied that:
- a. the amendment does not conflict with any Ministerial direction given under s 3.2.3 of the GR Act;⁵
 - b. the municipal limit for gaming machines in the City of Maroondah will not be exceeded by the making of the amendment;⁶ and
 - c. the net economic and social impact of the amendment will not be detrimental to the well-being of the community of the City of Maroondah (being the municipal district in which the Premises is located) – this is the no net detriment test.⁷

Determination of the Application

- 10) The Commission's power to approve the Applicant's proposed amendment is only exercisable if the Commission is satisfied of the above matters.⁸ However, even if the Commission is satisfied of the above matters, it still has a discretion to refuse the Application, or to grant the Application with conditions. The residual discretion to refuse is to be exercised in accordance with the GR Act as a whole, including in furtherance of the broader objectives of the GR Act.⁹ To that end, it is relevant that the main objectives of the GR Act include:
- a. to foster responsible gambling, in order to (i) minimise harm caused by problem gambling and (ii) accommodate those who gamble without hurting themselves or others;¹⁰ and
 - b. to promote tourism, employment and economic development generally in the State.¹¹
- 11) It is also relevant, in the context of the discretion of the Commission in determining this Application,¹² that the purpose of Chapter 3 of the GR Act is:¹³
- a. to provide for the allocation of gaming machine entitlements in order to maximise the financial and social benefits to the Victorian community within the regulatory framework applying to the allocation of entitlements; and
 - b. to promote a competitive gaming industry with the aim of providing financial and social benefits to the Victorian community.

⁴ GR Act, s 3.4.17.

⁵ GR Act, s 3.4.20(1)(a).

⁶ GR Act, s 3.4.20(1)(b).

⁷ GR Act, s 3.4.20(1)(c).

⁸ See eg *Mitchell Shire Council v Victorian Commissioner for Gambling and Liquor Regulation* [2021] VCAT 300 at [1].

⁹ *Mitchell Shire Council v Victorian Commissioner for Gambling and Liquor Regulation* [2021]. VCAT 300 at [30]; *Ocean Grove Bowling Club v Victorian Commission for Gambling Regulation* [2006] VCAT 1921 at [32].

¹⁰ GR Act, s 1.1(2)(a). See also GR Act, s 3.1.1(1)(f).

¹¹ GR Act, s 1.1(2)(f).

¹² Provided the Commission is satisfied of the mandatory pre-conditions set out in paragraph 9).

¹³ GR Act, s 3.1.1.2.

Material before the Commission

- 12) Prior to the hearing, the Applicant provided the Commission with materials and submissions in support of the Application. This material included the following witness statements and reports:
 - a. Witness statement of Mr Joseph Scerri, dated August 2025;
 - b. Witness statement of Ms Rebecca Poloso, dated August 2025;
 - c. A Social and Economic Impact Assessment report prepared by Mr Rhys Quick of Urbis dated September 2025 (**Quick Report**);
 - d. a Compliance report prepared by Ms Elizabeth Mackintosh of Onyx Gaming dated 10 September 2025 (**Mackintosh Report**); and
 - e. An Expenditure report prepared by Mr Tim Stillwell of SW Accountants and Advisors dated 22 September 2025 (**Stillwell Report**).
- 13) Reports were also prepared by officers of the Commission and provided to the Applicant and the Council, and considered by the Commission, including an Economic and Social Impact Report dated 10 December 2025 (**VGCCC Report**) and an Intelligence Report dated December 2025 (**Intelligence Report**).
- 14) The Commission received a submission from the Council made under s 3.4.19(5) of the GR Act, which included a Social and Economic Report prepared by Ms Bonnie Rosen of Symplan (**Symplan Report**).
- 15) Mr Quick and Mr Stillwell each responded in writing to the Symplan Report and also provided evidence at the public hearing addressing what each considered to be errors in the report. The Commission has considered the Council's submission and the Symplan Report, as well as Messrs Quick and Stillwell's responses to the Symplan Report.

Public hearing

- 16) The following witnesses gave oral evidence at the public hearing:
 - a. Mr Joseph Peter Scerri, a director of the Applicant, which has owned and operated the Dorset Gardens Hotel since 2007;
 - b. Ms Rebecca Poloso, who has been the Gaming Operations Manager for a group of venues, including the Dorset Gardens Hotel, since 2015;
 - c. Mr Tim Stillwell from SW Accountants and Advisors;
 - d. Ms Elizabeth Mackintosh from Onyx Gaming; and
 - e. Mr Rhys Quick from Urbis.
- 17) The Commissioners also visited the Premises prior to the hearing.

Background

The Premises and the surrounding area

- 18) The Premises is located on Dorset Road, Croydon, in the City of Maroondah (**LGA**), a metropolitan municipality located approximately 30 km east of Melbourne that covers an area of 61 square kilometres.¹⁴ The VGCCC Report describes the socio-economic profile of the LGA as a moderately disadvantaged socio-economic area compared with other metropolitan areas.¹⁵
- 19) The Premises is, according to Mr Quick, 'one of the largest entertainment venues of its type under one roof in Victoria with a maximum capacity of 888 patrons'.¹⁶ It contains:
- a. a bistro, open 7 days per week and serving lunch and dinner, with capacity for up to 350 patrons;¹⁷
 - b. a sports lounge with capacity for 650 patrons, which includes TAB facilities;
 - c. a nightclub open every Friday and Saturday night until 4 or 5 am;
 - d. function spaces;
 - e. a drive through bottle shop; and
 - f. 45 motel units and self-contained apartments.¹⁸
- 20) It also contains a gaming room with 97 EGMs, which is located next to the sports lounge.
- 21) The Premises has several car parks, one of which is shared with the Fawkner Bingo Centre. Located close to the Premises are a 7-Eleven, a service station, a building supply store, an aged care facility (200 m away) and retirement accommodation, and a TAFE campus (300 m away).¹⁹ It is a four-minute walk from the Premises to the nearest bus stop.²⁰ The broader surrounding area is largely residential.
- 22) Currently, there are eight gaming venues operating within the LGA with 640 EGMs with attached entitlements. The LGA is has a maximum permissible gaming machine entitlement of 759.²¹

Socio-economic profile of Maroondah City Council

- 23) According to the VGCCC Report, the estimated total adult population of the LGA is 94,222, making it the 26th most populous of the 31 metropolitan municipalities.²² The

¹⁴ VGCCC Report at [6.1].

¹⁵ VGCCC Report at p 6. This description is accepted by the Applicant: Applicant's written submissions at [12].

¹⁶ Quick Report at p 6.

¹⁷ According to the Quick Report and the Applicant's written submissions. Mr Scerri's evidence was that capacity was 250 patrons: (T.30.18-22).

¹⁸ Quick Report at p 25.

¹⁹ Quick Report at p 5.

²⁰ VGCCC Report at [7.1].

²¹ VGCCC Report at p 7.

²² VGCCC Report at p [6.2].

annual rate of population growth in 2025 of 0.74% is projected by the Department of Transport and Planning to be lower than the Victorian average (0.87%).²³

- 24) The VGCCC Report notes that the LGA has an EGM density of 6.79 EGMs per 1,000 adults, which is 54.6% more than the metropolitan LGA average (4.39) and 44.5% more than the State average (4.7). The LGA is ranked 3rd highest of 31 metropolitan municipalities in terms of EGM density.²⁴ If the Application were approved, the EGM density would be 6.88 EGMs per 1,000 adults,²⁵ and the LGA would remain the third highest LGA of the 31 metropolitan municipalities, in terms of EGM density.
- 25) The VGCCC Report also notes that in the 2024-25 financial year, the LGA had an average gaming expenditure (i.e. net player losses) of \$681.38 per adult, which is 17.7% higher than the metropolitan average (\$578.70) and 20.6% more than the State average (\$564.88). The LGA is ranked 8th of 31 metropolitan municipalities for gaming expenditure per adult.
- 26) In the 2024-25 financial year, the expenditure (player losses) on gaming for the LGA was \$64,200,755.53.²⁶ The LGA is ranked 23rd highest of 31 metropolitan municipalities with gaming machines by indexed gaming expenditure.
- 27) The Applicant accepts that the LGA has a high EGM density relative to the State and metropolitan averages, and relatively high EGM expenditure per adult.²⁷

The Application and the proposed redevelopment

- 28) The Applicant makes the Application as part of a proposed redevelopment of the Premises, including an upgrade to modernise the bistro, the nightclub, the sports lounge and the function rooms, increasing the capacity of the bistro by 100 seats, and creating casual lounge areas. The proposed redevelopment is currently estimated to cost \$6.7 million excluding GST.²⁸

The mandatory pre-conditions contained in section 3.4.20(1) of the GR Act

- 29) As set out in paragraph 9) above, the Commission's power to approve the Applicant's proposed amendment to its Licence is exercisable only if the Commission is satisfied of the matters set out in ss 3.4.20(1)(a), (b) and (c) of the GR Act. These reasons first address the mandatory pre-conditions contained in ss 3.4.20(1)(a) and (b) of the GR Act and then address s 3.4.20(1)(c) (that is, the no net detriment test).

²³ VGCCC Report at p [6.4].

²⁴ VGCCC Report at [8.1]-[8.2].

²⁵ VGCCC Report at [8.4].

²⁶ VGCCC Report at [11.1].

²⁷ Applicant's submissions at [16]; see also Quick Report at p 23.

²⁸ Quick Report at p 12.

No conflict with Ministerial directions given under section 3.2.3 of the GR Act

30) Pursuant to s 3.4.20(1)(a) of the GR Act, the Commission must be satisfied that the proposed amendment does not conflict with a Ministerial direction, if any, given under section 3.2.3 of the GR Act. There is no Ministerial direction given pursuant to section 3.2.3 of the GR Act that is relevant for the purposes of this Application. The Commission is satisfied that the amendment of the Licence does not conflict with a direction given under section 3.2.3.

Municipal limit for EGMs not exceeded

31) Pursuant to s 3.4.20(1)(b) of the GR Act, the Commission must be satisfied that the municipal limit for gaming machines for the municipal district in which the Premises is located will not be exceeded by the making of the amendment.

32) As set out in paragraph 22), there are currently eight gaming venues operating within the City of Maroondah with approvals to operate a total of 640 EGMs. The granting of this Application would result in the number of EGMs increasing by 8 to 648. The municipal limit for gaming machines in the City of Maroondah is 759. The Commission is satisfied that the municipal limit for gaming machines for the municipal district in which the Premises is located will not be exceeded by the making of the amendment.

The no net detriment test

33) Pursuant to s 3.4.20(1)(c) of the GR Act, the Commission must be satisfied that the net economic and social impact of approval will not be detrimental to the well-being of the community of the City of Maroondah, the municipal district in which the Premises is located. This requires the Commission to weigh the likely economic impacts of approval, the likely social impacts of approval, and the net effect of those impacts on the well-being of the relevant community,²⁹ being the community within 2.5 kilometres of the venue, whether residing in the municipal area or beyond it.

34) The net economic and social impact of an approval of the application on the well-being of a relevant community must be either neutral or positive for an application to be granted.

35) Set out below (and summarised in tabular form at Appendix A) is the Commission's identification and weighting of the likely economic and social benefits, and likely economic and social detriments, associated with the Application. These economic and social impacts have been considered individually and then cumulatively; further, where aspects overlap as both economic and social impacts, they have not been double counted.

²⁹ *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd* (2008) 19 VR 422 at [43].

Social and economic benefits arising from the Application

Capital works (proposed redevelopment)

- 36) The Applicant submitted that the proposed capital works will only occur if the Application is granted, and in its materials identified economic and social impacts associated with the capital works including:
- a. the cost of the capital works, estimated to be \$6.7 million excluding GST.
- 37) In support of its submission that the proposed capital works will only occur if the Application is granted, the Applicant relied on the evidence of Mr Scerri, including a letter he exhibited from the ANZ Bank (**ANZ**), dated 4 February 2025, expressing the ANZ's interest in 'working with [the Applicant] with a view to providing facilities' of up to \$6 million to finance the proposed capital works. The ANZ letter expressed its interest in considering the loan subject to, among other things, the Applicant obtaining an increase of 8 EGMS.
- 38) The Applicant's expert, Mr Quick, in his written report considered the proposed redevelopment (and investment returns) may proceed in time, rather than not proceed at all, were the Application not granted.³⁰ He stated during the hearing that:³¹
- I think it's more – there would have to be something done over time... to maintain the competitiveness of the venue. So I don't think it can be stated that you would just do something and stop there if this application doesn't proceed... There would be something that I think would have to occur at some stage, but the amount or the extent of that redevelopment would likely be scaled back or done in stages over a very long period of time.*
- 39) Based on the material provided and the evidence heard, the Commission is satisfied that the full proposed capital works would not occur in their entirety, or at least for a long time, if the Application were not approved. Nonetheless, in such circumstances, the Commission considers it likely that a scaled back form of the redevelopment would occur based on the Applicant's stated need to remain competitive.
- 40) Accordingly, the Commission finds that, whilst the proposed redevelopment does arise out of the Application, something less than the full works will occur regardless in the mid-term. The social and economic impacts associated with the capital works are a positive impact associated with the Application for which the Commission will give weight. However, factored into the weight given to this impact is the degree of uncertainty as to the extent to which the economic and social impacts of the proposed redevelopment are associated directly with the approval of the Application, as compared to, for example, simply being delayed were the Application not approved.
- 41) The Commission accepts the Applicant's submission that patrons will benefit from the proposed redevelopment and modernisation of the Premises, including the expansion of a popular bistro to accommodate an additional 100 patrons per sitting in a more

³⁰ Quick Report, p 60. See also the letter of Mr Quick dated 2 February 2026 at p 8.

³¹ T.184.28-185.7.

modern, cohesive and accessible space, and that this is a positive social benefit that is associated with the Application. It is one to which the Commission accords marginal weight, as no new social venues are being offered to the patrons (rather it is an expansion and modernisation), and factoring in the finding in paragraph 40) above.

- 42) The Commission considers that \$6.7 million expenditure on capital works is a positive impact and a moderate quantum of construction expenditure. The Commission accords it marginal to low weight given it is a one-off amount, and in light of the above findings40).

On-going complementary expenditure (non-gaming revenue)

- 43) The Applicant submitted that the proposed redevelopment would result in:
- a. increased supply contracts of \$1,128,600 per annum;
 - b. increased non-gambling expenditure (internal complementary expenditure) at the Premises through \$500,000-\$600,000 in food and drink sales (per annum), \$260,000-\$520,000 in accommodation (per annum) and unspecified increases to bottle shop sales and ticket sales from live entertainment, including at the nightclub.
 - c. external complementary expenditure has not been quantified at all in the Application.
- 44) The Application asserts that the LGA will benefit from increased supply contracts in that some contracts will be with “local” suppliers; and also claims some relatively small internal complementary expenditure. Marginal weight is attached to this potential impact.

Employment creation

- 45) The Applicant submitted that approval of the Application would result in additional employment opportunities associated with both the construction phase of the redevelopment and the ongoing operation of the Premises. The Applicant proposes the following employment creation will result from the Application:
- a. an increase of 10-15 full-time equivalent (FTE) short term employment positions for building contractors, equipment suppliers and material suppliers during construction of the proposed redevelopment;
 - b. an increase of two to four FTE ongoing employment positions for staff specifically in the gaming room and six to eight additional FTE positions (in roles involving reception, bistro, functions, sports lounge, TAB facilities, nightclub, bottle-shop and accommodation).
- 46) There is no evidence that the 10-15 FTE short term construction-related employment positions would be filled by people residing in the LGA, so the Commission does not accord any weight to this potential impact.
- 47) The creation of 8-10 new ongoing FTE positions at the Premises is a positive benefit for the LGA. The Applicant submitted that this additional employment ‘counts as a benefit whether or not it is in the gaming room’, citing *Mount Alexander SC v VCGLR*

[2013] VCAT 101 (**Mt Alexander**) and *Monash CC v L'Unico Pty Ltd* [2013] VCAT 1545 (**L'Unico**). However, in each of these decisions, the Tribunal drew a distinction between jobs created in the gaming room (or renovated gaming room) itself and other jobs, with those in the gaming room accorded greater weight.³²

- 48) Further, no persuasive evidence was before the Commission that any of the roles would be filled by people who reside in the LGA. Accordingly, and again factoring in the finding at paragraph 40) above, the Commission gives that benefit negligible weight.

Gambling expenditure not associated with harm

- 49) To the extent that new EGM expenditure is not associated with problem gambling, it has been recognised that it is legitimate to treat it as a negligible, positive economic impact.³³
- 50) The Intelligence Report contains a forecast of additional EGM expenditure of between \$1.17 million to \$1.68 million in the first 12 months of trade, post installation of the additional 8 EGMs.³⁴ Mr Stillwell, engaged by the Applicant, forecast a lower increase in expenditure of between \$993,771 and \$1,344,514 in the first 12 months of trade, post installation of the additional 8 EGMs.³⁵
- 51) Beyond the Intelligence Report's forecast range of total EGM expenditure, the Commission has no evidence before it to contradict the accuracy of the 'additional' gaming expenditure estimates provided by Mr Stillwell. There are two matters to note. Firstly, both the Intelligence Report and the Stillwell Report present their estimated expenditure in large ranges, which indicates a difficulty in forecasting the expenditure with a degree of confidence. Secondly, in the profit and loss projections that the Applicant provided to the Commission on their forecast gross gaming expenditure for the 'year 1' profit and loss (**Year 1 P&L**), the figure was \$22,064,164 compared to the figure of \$21,478,391 in the Stillwell Report.³⁶ The Applicant submitted, in closing submissions, that the reason for this variation is due to the Year 1 P&L adopting a higher baseline gaming revenue total, based on more up-to-date 2026 financial year profit and loss figures not available to Mr Stillwell. Even accepting that to be the case, it calls into question the confidence to be placed in Mr Stillwell's estimate range based on an outmoded, less accurate baseline.
- 52) Having regard to the above, the Commission is not in a position to reach a firm view as to the quantum of increased EGM expenditure that would result from the Application. The various forecasts presented are expressed in broad ranges and differ in their underlying assumptions, such that the Commission is unable to confidently rely on any

³² *Mt Alexander* at [190]; *L'Unico* at [79].

³³ *Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation* [2009] VCAT 2275 at [351] (**Romsey No 2**). As Bell J also observed in that decision, as the no net detriment test is a composite test, it does not matter 'whether the benefits of consumption for the gaming machine user are included in the economic or the social side, or both, as long as they are included and are not double-counted' (at [352]).

³⁴ Intelligence Report, p 8.

³⁵ Stillwell Report at [1.6].

³⁶ Stillwell Report at [13.8].

single figure or range as determinative. In those circumstances, the Commission does not seek to anchor its assessment to a precise amount, but instead proceeds on the basis of what it regards as a reasonable proxy figure within the forecast range for the limited purpose of assessing the potential social and economic impacts associated with gambling harm.

- 53) Of the increase in expenditure, Mr Stillwell estimated 40% of it would represent 'transferred' expenditure (that is, expenditure transferred from existing gaming venues within the LGA to the Premises),³⁷ after having regard to: the number of competitor venues; the suburbs of residence of patrons contained in a survey of gaming patrons; and empirical evidence from surrounding venues. This leaves the other 60% of additional expenditure as "new", that is, net gaming expenditure (player losses) that would be expended in the LGA by players at the venue.
- 54) Mr Stillwell reaches an estimate of 'new' expenditure of \$596,263 (low), \$701,486 (medium) and \$806,708 (high end of range) in the first 12 months of trade, post installation of the additional 8 EGMs.³⁸
- 55) The Commission accepts that 60% of the additional expenditure at the Premises would be new expenditure on EGMs in the LGA. The midpoint of the new gaming expenditure estimate is \$701,486 based on Mr Stillwell's estimate (noting the inherent uncertainties in this figure, as set out above at paragraphs 51) to 52)). To the extent that this new expenditure is not associated with problem gambling (addressed in paragraphs 70) to 71) below), the Commission determines it to be an economic benefit associated with the Application that is of marginal weight.

Community contributions

- 56) The Applicant has proposed to include, as a condition of approval, that it contribute \$20,000 per year cash donations to 'community associations selected by the [Applicant]'. The Applicant proposed for Mr Scerri to continue to administer the donations as he personally has done by responding directly to community requests.³⁹
- 57) The identity of the proposed associations who would benefit from this contribution is unknown, beyond 'a range of local community and sporting groups'.⁴⁰
- 58) The Applicant's proposed condition would enshrine a lower total cash contribution than the amount which the Premises has, voluntarily, donated in recent years (excluding the 2020-21 Covid-restrictions impacted financial year). Mr Quick's evidence was that a total of \$133,255 in cash donations had been made by the Premises in the 2020-2024 financial years. Excluding the 2020-21 financial year, over \$25,000 in cash was donated each year, with the average annual cash donation being \$31,700. The recipients of these cash donations are unknown, beyond being described as 'charity',

³⁷ Stillwell Report at 10.5].

³⁸ Stillwell Report at [10.9].

³⁹ Response provided by Applicant on 22 December 2025, item 5.1.

⁴⁰ Scerri Statement at [48].

‘community members’, ‘sports clubs’, ‘other community groups’ and ‘local business or organisation’.⁴¹

- 59) The Commission accepts the Applicant’s submission that, by proposing a condition be imposed on the Licence for a minimum contribution amount, the minimum contribution to be made each year by the Venue Operator would be legally enforceable, and that enforceability is capable of constituting a positive social and economic impact.⁴² That said, given that the evidence showed that the Applicant had no intention of reducing the amount it would contribute whether the Application was to be approved or not, the Commission does not consider the proposed community contributions to amount to a higher weight than allocated by the Commission.
- 60) However, the Applicant has declined to provide any commitment as to the organisations which would benefit from the cash donation, and also declined to propose a framework for the determination of the recipients each year, beyond it continuing to be personally allocated by Mr Scerri in response to community requests. Mr Scerri gave evidence that it was ‘extremely important that [the Applicant] maintain the ability to be flexible as to where donations go annually as community need can vary year on year.’⁴³ With no specific information as to the past beneficiaries (beyond the general descriptions provided by Mr Quick, noted above), and no proposed framework to allow for transparency and fairness with respect to future cash contributions, the Commission is unable to assess the likely members of the community who would benefit from the cash contribution.
- 61) Further, the amount proposed by the Applicant as its legally binding cash commitment is low, having regard to the amounts which have been donated voluntarily in previous years, on a lower number of EGMs and EGM expenditure.
- 62) The Commission gives the positive impact arising from the Applicant’s proposed cash contribution condition as nil to marginal weight in its assessment for the purposes of the no net detriment test.
- 63) The Applicant also proposed as a ‘community contribution’ \$10,000 in kind:⁴⁴
- spent on the maintenance and ownership of a courtesy bus and driver to be used by customers, associated clubs of the venue or any other association or club that may ask for assistance and the supply of in-kind vouchers to be used by any association, club or community group at the discretion of the Applicant.*
- 64) The Commission does not consider the Applicant’s proposed condition of a ‘community contribution’ spent on the maintenance and ownership of a courtesy bus and driver to be an impact associated with the Application. In oral evidence, Mr Scerri accepted that the bus itself was an asset of the Applicant,⁴⁵ with the name of the Premises (Dorset

⁴¹ Quick Report, p 30.

⁴² The Commission had a similar view in its decision in the matter of an application by Doxa Community Club Inc in relation to an EGM increase to the Clocks at Flinders St (see Reasons dated 4 April 2024 at [44]).

⁴³ Scerri Statement at [50].

⁴⁴ Annexure 5 to the Scerri Statement.

⁴⁵ T.79.20-3.

Gardens) on the side of the bus⁴⁶ and used as a courtesy bus to take people home at specific times from the Premises.⁴⁷

- 65) In any event, following the hearing the Applicant agreed to increase the proposed annual cash contribution to \$30,000 and remove the in-kind contribution all together.
- 66) The Commission has determined that it is appropriate to impose conditions governing the distribution of those funds. While the Applicant submitted that such arrangements may introduce additional administrative steps, the Commission does not accept that they would impose unreasonable red tape. Rather, the conditions are designed to preserve appropriate flexibility while introducing transparency and accountability. In particular, the requirement that decisions regarding distribution involve representatives drawn from the Premises, Council and the broader community will better ensure that requests for financial assistance are assessed in a fair, consistent and community-focused manner that meets different needs as they arise from year to year.

Increased competition among gaming venues

- 67) Increased competition is a factor to be considered by the Commission in light of the statutory purposes of the GR Act and the consumer benefits that derive from competition.
- 68) Mr Quick noted that the EGMs are often occupied and that patrons may have a preference toward a certain type of machine which cannot be met, and the proposed addition of 8 EGMs would allow for greater choice and capacity to be offered to patrons.⁴⁸ Based on a gaming usage survey conducted over a one-week period in 2024, Mr Quick observed there to be extended periods when more than 80 people were playing machines at one time, that there were at least 1 or 2 hours of very high usage each day, and that, in his experience, very few venues maintain capacity usage across such long periods.⁴⁹ This indicates that there is some consumer demand for additional capacity in the gaming room.
- 69) The Commission considers the impact of increased competition to be an economic benefit to which it gives negligible weight.

Social and economic detriments arising from the Application

Gambling harm

- 70) To the extent that a portion of the new expenditure will be by those suffering gambling harm, this represents an adverse social and economic impact.⁵⁰

⁴⁶ T.80.4-5.

⁴⁷ T.73.25-27.

⁴⁸ Quick Report, p 31.

⁴⁹ Quick Report, p 37.

⁵⁰ Similarly to the observations Bell J made in *Romsey (No 2)* (above), this can be treated as a social and economic impact provided there is no double-counting (see eg Bell J's consideration of social and economic impact in *Romsey (No 2)* at [45]-[47]).

- 71) As set out above, the Commission is unable to determine, with any precision, the amount of increased expenditure that will result from the Application. The Commission proceeds on the basis that there will be an increase in the new expenditure by those suffering gambling harm if the Application were granted.
- 72) The Commission has also taken into account that, as set out in paragraph 24) above, the LGA is currently the 3rd highest LGA of the 31 metropolitan municipalities, in terms of EGM density (and if the Application were approved, the EGM density will be 6.88 EGMs per 1,000 adults, and the LGA would remain the 3rd highest LGA of the 31 metropolitan municipalities).
- 73) Mr Quick, in his report, concluded that the potential for increased problem gambling as a direct result of the Application is limited. He has based this on the socio-economic profile of the LGA, what he describes as ‘moderate gaming access/usage’ at the Premises and ‘responsible venue operations’. In his view, the demographic profile of the LGA does not present an elevated risk of problem gambling behaviour or harm from that behaviour. He emphasises that the area within the immediate 2.5 and 5 km radius of the Premises is an area home to residents with a positive demographic profile and experiencing low levels of disadvantage.⁵¹
- 74) The Commission has had regard to Ms Mackintosh’s evidence, including her observations of positive interactions she had with gaming staff and patrons at the Premises.⁵² Ms Mackintosh gave evidence that, from a responsible gambling perspective, the Premises was the best she had observed in her professional experience, noting repeated examples of proactive staff engagement, attentive supervision within the gaming room and appropriate intervention where required.
- 75) The Commission also notes that the Applicant has proposed, as a condition of its Licence, the adoption (and legal enforceability) of the Harm Minimisation Policy Ms Mackintosh has recommended for the Premises, including minimum staffing levels in the gaming room.
- 76) In addition to that proposed condition, the Commission has taken into account the Premises’ existing practices, including visible staff presence within the gaming area, demonstrated familiarity with patrons, appropriate responses to observable signs of distress, and the operational leadership of Ms Peloso. The evidence indicates that the Applicant has significant experience in managing gaming operations and that responsible gambling practices are embedded in its day-to-day management.
- 77) These matters are relevant protective factors which mitigate, to some extent, the risk of gambling harm associated with an increase in gaming capacity. However, they do not eliminate the structural reality that an increase in gaming machines is likely to result in some increase in gambling expenditure attributable to persons experiencing harm.

⁵¹ Quick Report, p 22. The Commission has also had regard to the Symplan Report, but as set out earlier in these reasons, could not confidently rely on that report’s conclusions in light of the issues identified by Mr Quick and Mr Stillwill and in the absence of the maker of the report being called.

⁵² See T.149.4-18. See also Makintosh Report at p 10.

78) Having regard to both the potential adverse social and economic impacts of increased gambling harm, and the mitigating factors identified above, the Commission accords the gambling harm impact marginal weight in its overall assessment under the no net detriment test.

Diversion of trade

79) A diversion of trade will constitute a negative impact where that diversion would reduce the facilities, services or employment offered to the community of the LGA.

80) As set out above, Mr Stillwell concluded that 40% of the increased expenditure will be diverted from other gaming venues in the LGA.

81) The Commission considers the impact of any diversion of trade to be an economically and socially negligible weighted factor.

Community attitude

82) The Victorian Court of Appeal has observed that concern about the impact of gaming machines on the community is relevant, whether or not it is expressly referable to the particular proposal, with the weight to be attached to that evidence a matter for the Commission.⁵³ The Court of Appeal also observed that approvals likely to cause unhappiness or discontent in the community (or any part or parts of it) will cause a social impact which is detrimental to the well-being of the community.⁵⁴

83) No community survey was conducted by the Applicant nor the Council, leaving the Commission without a way to assess the extent of the broader community attitude to the Application. No submissions were made to the Commission by any businesses, individuals or organisations in relation to the Application (either in favour or opposing the Application), and the Council submission records it had not received feedback from any businesses, individuals or organisations in relation to the Application.

84) The Commission notes that Council's submission, by reference to the SymPlan report, objected to the Application. The importance of the role of councils, as the democratically elected representatives of people in local communities, has been judicially recognised.⁵⁵ The Commission has considered the Council's submission (both in the context of assessment of community attitudes and more generally) and makes the following observations: the principal basis for that objection related to the SymPlan report's conclusion that the Application did not align with Council's plans, policies and strategies to promote a safe environment for gambling activities. The basis for SymPlan's conclusion was expressed to be 'multiple risk factors associated with the proposal'.⁵⁶ The Council did not appear at the hearing, and the SymPlan author did not provide oral evidence. Mr Quick and Mr Stillwell considered there to be errors in some of the underlying bases to the SymPlan report, including errors in the location and

⁵³ *Romsey* at [49].

⁵⁴ *Ibid* at [44].

⁵⁵ See eg *Romsey (No 2)* at [292].

⁵⁶ See eg Symplan Report at [82].

surrounding areas of the Premises (including the areas of disadvantage).⁵⁷ The Commission found the SymPlan report of little assistance in determining community attitude about the impact of gaming machines in the community, given the unreliability of the underlying bases and without the benefit of hearing from the author.

- 85) While the Commission acknowledges that there is no statutory requirement for a municipal authority to attend the hearing of an application, the absence of the Council in circumstances where it has objected to the Application limits the Commission's ability to test and fully understand the material relied upon in support of that objection. In such circumstances, the Commission is unable to seek clarification, probe the assumptions underpinning the submission, or explore matters raised but not fully explained in the written material.
- 86) Accordingly, while a municipal authority's submission may raise matters of relevance or broader policy concern, the absence of the author necessarily affects the weight that can be afforded to that submission. In the circumstances of this hearing, where the Applicant has highlighted what they deem to be errors contained within the report, it would have assisted the Commission in determining the appropriate weight to hear the authors response.
- 87) The Commission does not accept the Applicant's submission that the SymPlan report should be afforded no weight. The errors identified by the Applicant, one of which was the location of the Premises on maps, were overall insufficient to justify dismissing the report in its entirety.
- 88) However, in circumstances where aspects of the report were challenged by the Applicant and the underlying assumptions were not able to be tested or defended at the hearing, the Commission considers it appropriate to discount the weight afforded to those aspects of the report. The Commission has therefore had regard to the SymPlan report, but accords little weight to its conclusions to the extent that they rest on assumptions that were not substantiated through evidence before the Commission.
- 89) The Commission accepts the Applicant's submission that the Commission has no evidence from which it can reliably reach a conclusion as to the community attitude to the Application. The Commission therefore attaches nil weight to this potential impact.

Conclusion as to the no net detriment test

- 90) After consideration of the material before it, including the evidence provided at the hearing (and weighted as outlined above and in tabular form at Appendix A of these reasons), the Commission is satisfied that the net social and economic impact on the well-being of the community of the municipal district in which the Premises is located will have a marginal net benefit overall.
- 91) Accordingly, the pre-condition set out in section 3.4.20(1)(c) of the GR Act is satisfied.

⁵⁷ See further Mr Quick's letter of 2 February 2026 responding to the Symplan Report.

The Commission's discretionary power once the mandatory pre-conditions are satisfied

92) The Commission retains a residual discretion to refuse the Application, even if the no net detriment test is satisfied. The exercise of such discretion would require exceptional circumstances. It is satisfied that there are no other circumstances that would justify refusal of the Application in the exercise of its discretion.

Conclusion

- 93) On the material that has been put before it, the Commission has determined that the mandatory preconditions for approval set out in section 3.4.20(1) of the GR Act have been satisfied (including that the no net detriment test has been satisfied), and that it is appropriate to grant the Application with conditions.
- 94) The Application is therefore granted subject to the conditions set out in Appendix B.

Appendix A

Summary of social and economic impacts arising from the Application

The following table is a summary of the economic and social benefits and detriments considered by the Commission in reaching its decision. The table is to be read in conjunction with the main body of the Commission's reasons for decision.

	IMPACT	WEIGHT
Social and Economic Benefits	Benefit of proposed redevelopments and money spent on facilities and availability of facilities <ul style="list-style-type: none"> - increased opportunity for recreational gaming - improved or enhanced venue offering 	Marginal to low
	Community contributions <ul style="list-style-type: none"> - Social benefit derived from community contributions 	Nil to marginal
	Employment creation <ul style="list-style-type: none"> - additional employment 	Negligible
	Gambling expenditure not associated with gambling harm	Marginal
	Expenditure on associated suppliers <ul style="list-style-type: none"> - complementary expenditure 	Marginal
	Increased competition among gaming venues in Maroondah City Council	Negligible
Total weight of social and economic benefits	Marginal-low benefit	
Social and Economic Detriments	Social and economic disbenefits related to gambling harm <ul style="list-style-type: none"> - increased incidence of gambling harm in the community - gaming expenditure associated with gambling harm 	Marginal

	Diversion of trade - lower spending or job losses from other businesses	Negligible
	Community attitude	Nil
Total weight of social and economic detriments	Marginal detriment	

Appendix B

Conditions of approval

Conditions of the decision of the Commission, dated 5 March 2026 to grant the Application by DG Hotel Pty Ltd to increase the number of EGMs operated at the Dorset Gardens Hotel, located at 335 Dorset Road, Croydon VIC 3136 from 97 to 105 are as follows:

These conditions are imposed on the approval under section 3.4.20 and on the VO licence under section 3.4.17 of the *Gambling Regulation Act 2003* (Vic).

Condition 1 – Risk Assessment and Risk Register

- 1.1 Before the installation of an additional eight electronic gaming machines (**Additional EGMs**) at the Premises, the VO must:
 - 1.1.1 undertake and document a gambling harm risk assessment for the Premises' EGM gambling activities, based on the Australian Standard AS/NZS ISO 31000 Management (**Risk Assessment**), to be made available to the Commission;
 - 1.1.2 develop a venue-specific gambling harm risk management plan which responds to the Risk Assessment, detailing controls for each risk, including actions that can manage the likelihood of an event occurring, and actions that can manage the consequences of an event (Risk Management Plan), to be made available to the Commission; and
 - 1.1.3 submit to and have approved by the Commission a harm minimisation policy and procedures manual (the **HM Manual**), which gives effect to the gambling harm risk controls and operational practices specified in the Risk Management Plan. The HM Manual must:
 - 1.1.3.1 include steps that the VO will take to minimise harm arising from EGM use (over and above any existing requirements detailed in the Premises' Code of Conduct, the current Commission Gambling Venue Checklist and harm minimisation strategies set out in the Gambling Regulation Act 2003 and/or relevant Regulations);
 - 1.1.3.2 include an obligation on the VO to communicate to adults with minors accompanying them on the Premises by way of signage that minors must:
 - (a) be monitored; and
 - (b) must not approach or enter the gaming machine area;

- 1.1.3.3 prohibit the service of food and beverages to patrons whilst using an EGM other than as permitted by Ministerial Direction S 85; and
 - 1.1.3.4 prohibit patrons from reserving EGMs to use another EGM.
 - 1.1.4 The HM Manual, once approved, must be fully implemented and complied with throughout the Premises.
- 1.2 The HM Manual may only be amended with the prior written approval of the Commission.
- 1.3 Once approved by the Commission, the HM Manual is to be:
 - 1.3.1 provided to the Premises' nominated Venue Support Worker (**VSW**); and
 - 1.3.2 made available to Premises' customers, including by:
 - 1.3.2.1 publication on the Premises' website; and
 - 1.3.2.2 display in the gaming machine area in a manner that invites public attention at all times the gaming machine area is open to the public.
- 1.4 The VO must confirm in writing to the Commission annually whether the gaming machine area is being operated in accordance with the HM Manual.
- 1.5 If the HM Manual is breached, the VO must keep a register of the breaches that must be made available to the Commission for inspection upon request. The VO must enter the nature of the breach together with steps to be taken to address each breach in the register.
- 1.6 The VO must implement and maintain Premises management that ensures the effective coordination and management of gambling related harms to support operation of the HM Manual, including specified meeting, record keeping and information sharing requirements such as:
 - 1.6.1 convening monthly harm minimisation coordination meetings of staff who participate in EGM monitoring;
 - 1.6.2 ensuring that responsible gambling officers (**RGOs**) and staff rostered for duty in the gaming machine area meet with the VSW at least once every six months;
 - 1.6.3 ensuring that all staff involved in gaming machine area operations are trained in and able to access and keep required records, including RG Register records; and
 - 1.6.4 ensuring that all staff involved in gaming machine area operations clearly communicate with one another during handover and between shifts to coordinate management of gambling harm risk.

Condition 2 – Compliance with Risk Register

- 2.1 No later than 12 months after the installation of the Additional EGMs and every 12 months thereafter, the VO must provide a written attestation to the Commission confirming:
 - 2.1.1 that the VO has made all necessary enquiries to be satisfied that all identified practices and controls have been, and continue to be, implemented; and
 - 2.1.2 that the Risk Register has been reviewed, any new or changed risks identified, and the treatments and controls updated to ensure they remain effective.
- 2.2 The written attestation must be made by an officer of the VO.

Condition 3 – Harm minimisation policies, access controls and staffing

- 3.1 At all times the gaming machine area (**GMA**) is open, the VO must ensure that:
 - 3.1.1 the service of food and beverage to patrons while seated at any EGM does not occur other than as permitted by Ministerial Direction S 85;
 - 3.1.2 minimum staffing levels are maintained as follows:
 - 3.1.2.1 subject to the following clauses, from 10:00 am until 4:00 am the following day, a minimum of three staff on duty in the GMA;
 - 3.1.2.2 A minimum of 4 staff rostered on in the GMA during Peak Periods⁵⁸.
 - 3.1.2.3 A minimum of 5 staff rostered on in the GMA during Extreme Peak Periods⁵⁹; and
 - 3.1.2.4 from 10:00 pm until close of the GMA, a minimum of two of such staff are required to be qualified RGOs.
 - 3.1.3 all staff rostered in the GMA are trained in YourPlay and able to assist patrons to enrol and set pre-commitment limits;
 - 3.1.4 all office holders of the VO have completed RSG Modules 1 and 2 within 60 days of appointment or prior to the installation of the Additional EGMs, whichever is earlier.
- 3.2 The VO must ensure that information about access to gambling help services, including Gambler's Help, is displayed on television screens within the GMA.

Condition 4 – Access control and visibility of the Gaming Machine Area

- 4.1 The VO must not permit any entry point to the GMA to be wedged, propped or otherwise held open while the GMA is in operation.

⁵⁸ Peak Periods are defined as: 4pm – 12 midnight on a Thursday and Friday.

⁵⁹ Extreme Peak Periods are defined as: 6pm – 12 midnight on Saturdays.

- 4.2 The VO must install and maintain at each entry point to the GMA entrances that do not automatically open when approached.
- 4.3 Prior to the operation of the Additional EGMs, the VO must ensure that all entry and exit points to the GMA are fitted with opaque glazing, screening or privacy treatments that limit visibility of EGMs from outside of the GMA while still permitting natural light.

Condition 5 – Risk of criminal influence

- 5.1 Prior to the installation of the Additional EGMs, the VO must ensure that all office holders, the nominee, managers and all GMA staff have completed Anti Money Laundering and Counter Terrorism Financing training within the last 12 months.
- 5.2 Every 12 months after installation, the VO must provide a written attestation confirming compliance with this condition, made by an officer of the VO.

Condition 6 – Works and finance

- 6.1 The VO must not install or operate any of the Additional EGMs unless and until it has provided, to the satisfaction of the Commission, written evidence of unconditional finance approval for such amount as is required to complete the capital works described in condition 6.2.
- 6.2 *Capital works*
 - 6.2.1 Subject to the conditions below, the capital works must be substantially completed to the satisfaction of the Commission within 36 months after commencement of operation of the Additional EGMs, and generally in accordance with the approved plans by SUU Studio Pty Ltd dated 7 December 2024, and all additional work required by these Conditions (the **Works**).
- 6.3 If the Works have not been completed with 36 months after the commencement of operation of the Additional EGMs, the Additional EGMs must cease to operate unless an extension is sought in line with condition 6.8.
- 6.4 *Progress report*
 - 6.4.1 By 26 months after commencement of operation of the Additional EGMs, the Venue Operator must provide a written progress report to the Commission which demonstrates compliance with the construction timeline provided to the Commission in the letter dated 2 March 2026 from SUU Studio Pty Ltd, including confirmation that Stage 1 of the "construction works" referred to in that timeline has been completed.
- 6.5 *Consequence of non-compliance*
 - 6.5.1 If the Venue Operator does not satisfy the Commission that it has complied with the timeline referred to in condition 6.3, including commencement of Stage 1 works, the Additional EGMs must cease to be operated until the

Works are substantially completed to the satisfaction of the Commission in accordance with condition 6.2.

- 6.6 The VO must use reasonable endeavours to engage local trades and suppliers from within the City of Maroondah in relation to the capital works associated with the application for approval for 8 Additional EGMs.
- 6.7 The Commission may, on the request of the VO, agree to extend the time for completion of the Works provided such request is made no later than the date that is 33 months after the commencement of the operation of any of the Additional EGMs. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.

Condition 7 – Community contributions

- 7.1 The VO must make an annual community contribution of \$30,000 in cash indexed to CPI (the **Annual Contribution**) for as long as any of the Additional EGMs are in operation.
- 7.2 The VO must establish 'The Dorset Gardens Community Fund' (the **Fund**) into which the Annual Contribution will be deposited, to be allocated to community associations within the City of Maroondah.
- 7.3 The Annual Contribution will be distributed as determined by a Committee (the **Committee**) established by the VO, comprising:
 - 7.3.1 two representatives of the VO; and
 - 7.3.2 two representatives of the Maroondah City Council, or in the event that the Maroondah City Council is unwilling to provide a representative, a community representative nominated by the VO. In the alternative, the Maroondah City Council may elect to provide one representative, with a second to be drawn from within the City of Maroondah.
- 7.4 The Committee will advertise annually in a newspaper circulating in the City of Maroondah for requests from not-for-profit community organisations, providing services or facilities to residents within the City of Maroondah for a distribution from the Fund by the VO. The Committee will assess requests for distributions in accordance with guidelines to be established by the Committee, whereafter the VO shall make such distributions.
- 7.5 Community groups receiving funding under this condition must not be required, directly or indirectly, to publicly acknowledge or promote the VO or the Premises as a result of receiving funding.
- 7.6 The VO must ensure that funds allocated from the Annual Contribution are distributed across a range of relevant groups, and must include organisations within the City of Maroondah, that provide support services to residents impacted by gambling harm.

- 7.7 If any of the Annual Contribution is not distributed in accordance with this Condition, the operation of EGMs at the Premises must cease immediately for as long as any part of the Annual Contribution remains undistributed.
- 7.8 The VO must keep detailed financial records of the Annual Contribution and must provide:
- 7.8.1 a yearly attestation to the Commission, signed by a director of the VO that the Annual Contribution has been made.

Condition 8 – Breach of conditions

- 8.1 Where the Commission determines that the VO has not complied with one or more conditions, it will require the VO to cease operating the Additional EGMs at the Premises until the Commission is satisfied the breach has been rectified and appropriate systems implemented to prevent recurrence.