

# Crown Melbourne Ltd: The Suitability Decision

## Address to media: Commissioner Fran Thorn

26 March 2024

### Introduction

Holding an exclusive licence to operate a casino confers unique privileges.

The story of Crown Melbourne casino is one of profit, power, and privilege. It is also a tale of extraordinary abuse of privilege.

As the Royal Commission into the Casino Operator and Licence (RCCOL) stated, Crown’s “privilege to hold a casino licence is dependent upon it being, at all times, a person of good character, honesty and integrity”.

It was not.

The millions of people who entered the doors of Melbourne Crown casino since it opened in the mid-1990s had every right to expect an environment in which gambling was safe, criminal influence was not allowed to flourish and that gamblers were not exploited rapaciously. That the conditions of Crown Melbourne’s licence would be met and the conditions of its social licence to operate would be honoured. That Crown Melbourne would behave in a way that met the suitability test of its licence.

It did not.

### Background

We are here today because Crown Melbourne casino breached its legal, social and moral obligations, resulting in illegal activities, tax avoidance, money laundering, criminal associations, significant harm to vulnerable community members, a Royal Commission and other interstate inquiries, a finding of unsuitability, the appointment of a Special Manager and ultimately a decision by the Victorian Gambling and Casino Control Commission (VGCCC) on whether Crown Melbourne is suitable to continue to hold the casino licence.

Over the past five years the arrogance of the casino industry and disregard for their obligations has been exposed. The activities of Crown Melbourne and other casinos abused the privilege conferred by their licences and trashed any public trust in the industry.

We are now in an environment where scrutiny of the casino and gambling industry and their regulators are higher, and deservedly so, than when the events triggering this suitability story began.

The failures of Crown Melbourne Limited and its associates were outlined in the 2021 Royal Commission report. At the heart of Crown Melbourne’s failures were broken governance, absence of appropriate standards of risk management and regulatory compliance and a culture that prioritised profit over the well-being of customers.

### Prospects for remediation

Despite the enormity of its findings, the Finkelstein Royal Commission recommended Crown Melbourne be permitted to continue operating the casino under stringent independent oversight conditions for two years and for two significant reasons:

- It determined that immediate cancellation of the casino operator's licence was not in the interests of the Victorian community due to the significant risk to innocent third parties (including Crown employees and suppliers), and to the state's economy.
- The Royal Commission also determined Crown Melbourne had the will and capacity to transform itself to become suitable again to hold the Melbourne casino operator licence. It concluded that an independently oversights reform program was likely to succeed, and this would be to Victoria's benefit.

Crown was given two years to demonstrate a sufficient return to suitability.

### **The Victorian Government's Response – two approaches to holding the Casino to account**

The shocking findings of the RCCOL elicited a strong response by the Victorian Government. This had two main elements.

Firstly, the establishment of a Special Manager with unprecedented powers of control over the Crown Melbourne Board and organisation and with a mandate to report on the extent to which Crown Melbourne acted in remediating the failures unearthed by the Royal Commission.

On 1 January 2022 Stephen O'Bryan KC was appointed as the Special Manager for the Melbourne Casino Operator.

The task of the Special Manager has required close oversight of remediation in the areas outlined in Appendix I of the Royal Commission. In summary these deal with:

- Cultural change
- Responsible service of gambling to minimise harm
- Financial crime – in particular anti-money laundering/counter terrorism financing
- Risk management, governance, and compliance with statutory obligations.

The Special Manager has provided four reports to the Minister for Casino, Gambling and Liquor Regulation and the VGCCC in the course of the last two years. The final report was received on 12 January 2024.

Each of the four reports has tracked the reform efforts of Crown Melbourne in great detail and with a clinical objectivity. The Special Manager established clear criteria to determine whether Crown Melbourne has made appropriate progress. Whilst recognising that two years was a short period in which to redress the manifold failings of Crown Melbourne, he has required demonstrated improvement not merely statements of aspiration, nor descriptions of activity.

The Special Manager and his office undertook their tasks collaboratively with the VGCCC, which continued to regulate Crown. I acknowledge the far-reaching contribution of the Special Manager and his team in ensuring that the Casino was held rigorously to account and realistically on track in its improvement task and express the Commission's thanks for his significant contribution to their decision on suitability.

The second part of the Government's response to the Royal Commission involved the formation of a new regulator focussed solely on the gambling industry, and with a specific set of enhanced powers

with respect of the Melbourne casino. This is the Victorian Gambling and Casino Control Commission.

The VGCCC was specifically granted stronger enforcement powers<sup>1</sup> under legislative amendments to the *Casino Control Act* which increased the maximum penalty it could impose on Crown from \$1 million to \$100 million. This finally ensured that the punishment could be appropriately fitted to the level of wrongdoing, and that regulatory action held sufficient “bite” to deter other wrongdoing.

The Commission rapidly demonstrated its willingness to exercise the new powers where warranted.

### Scope of suitability decision

Turning to the purpose of today – whether or not Crown Melbourne Ltd is suitable to hold a casino licence and whether that licence remains in the public interest.

The Commission’s determination of suitability has **NEVER** been a decision about whether there should be a casino in Melbourne. Our brief was to examine Crown Melbourne’s suitability to continue to hold the casino licence and whether that licence remained in the public interest.

The Commission has been preparing for the suitability decision for two years and this preparation involved a number of major streams of work.

Firstly, redressing the findings on wrong doings unearthed by the Royal Commission, resulting in five different disciplinary actions, with fines totalling \$250M<sup>2</sup> and in addition issuing directions to Crown to institute significant harm minimisation initiatives, to improve their approach to money laundering and financial crime, and improvement of marketing efforts locally and internationally to avoid exploitation and illegal practices, and documenting all casino practices so that proper control and oversight can be exercised. This first stream of work demonstrated that the Commission “meant business.”

Secondly, establishing a framework that would enable us to determine if, on the evidence presented by the Special Manager, we could be clearly satisfied that Crown Melbourne met the tests of suitability and had fully rectified its failings.

Thirdly, building a Casino Division and regulatory oversight regime that enabled us to be confident that the Government and community could be reassured that the casino would be held appropriately and stringently to account in the longer term. We have moved a long way in the past two years.

Fourthly, and possibly most importantly, undertaking what came to be known as the “Plan B project” that prepared for the binary alternatives allowed for under the Casino Control Act – suitability or unsuitability and loss of licence to operate.

Early in 2022 it became obvious to the new Commission that Crown Melbourne had never been required to put in place a workable transition out plan that would ensure business continuity in the event of a loss of licence, unlike other major gambling licencees. In addition, the legislative provisions covering the removal of a casino operator and institution of a statutory manager to oversee orderly transition were inadequate and left the Commission and Government exposed to bad actions by a “sacked” licence holder.

The Commission worked with government throughout 2023 to improve the powers of a statutory manager which would step in to oversee the casino’s operations should a decision be made to cancel the casino licence. Improved legislative amendments to the manager provisions in the Casino Control Act 1991 are now in place. In addition, an experienced insolvency and commercial advisor was

contracted to assist with determining what needed to be in place organisationally to effect transition out – and that advisor was also retained to step into the role of the statutory manager on behalf of the VGCCC if required.

Crown Melbourne was very aware that the Commission was putting in place arrangements that would affect an unsuitability finding and was required to commence work in preparing a transition out plan. The Commission engaged with Crown Melbourne, Crown Resorts and Blackstone to put in place enduring legal arrangements to facilitate a smooth transition to the statutory manager if the licence is cancelled. Arrangements ensuring that the operations of the Melbourne casino would continue, and that the employees and businesses that make up the Crown Melbourne casino footprint would be unaffected by a finding of unsuitability against Crown Melbourne.

“Plan B” was not the lesser option, it was the critical precondition to whatever finding the Commission made on suitability or unsuitability – to know how to act on an unsuitability finding was necessary to be sure that we could find Crown Melbourne unsuitable if the evidence supports that or that if we make a decision that Crown is suitable we could be absolutely sure we did it because it was the right decision, not because of concerns about the disruption that would follow an unsuitability finding.

We are determined to ensure that that Crown is **NOT** and will **NEVER** be ‘too big to fail’. These arrangements are enduring and can be activated now or in the future if any casino operator fails to deliver on its obligations. This will be an enduring legacy of the Commission.

### **The decision**

To be suitable to operate a casino an operator must obey the law; act honestly and with integrity; deter illegal and immoral behaviour; not exploit gamblers; actively minimise gambling harm and cooperate fully and candidly with its regulators.

These are not unreasonable expectations of any entity holding or aspiring to the privilege of holding a casino licence.

In making its determination the Commission has carefully considered the reports of the Royal Commission, the Bergin Inquiry, and the West Australian Royal Commission into the Perth casino.

The VGCCC has given full consideration to the Special Manager’s reports (all 4 of them amounting to nearly 4000 pages of evidence). It is satisfied that the Special Manager has assessed all relevant matters and that a significant body of evidence supports the Special Manager’s conclusions.

**The Commission today announces that it is clearly satisfied that Crown Melbourne is suitable to operate the Melbourne Casino and that it is in the public interest for the Melbourne Casino Licence to remain in force.**

### **Why we are clearly satisfied**

The Commission has made its own, independent determination on the suitability of Crown Melbourne on the basis of three key considerations:

1. The findings of the Special Manager that Crown Melbourne has addressed the systemic failings identified by the Royal Commission.
2. Our own work with Crown Melbourne, substantiating that the various suitability requirements have been met. As the Special Manager has reported, during our investigations, we observed a different Crown emerging with a clear understanding of the privilege and obligations of holding the licence.

3. Crown's recognition that to meet its own aspirations to be more than suitable, to be excellent, it needed a comprehensive transformation plan, referred to by the Special Manager, to continue its reform efforts, and against which it will be held accountable.

The Commission considers the issues identified by the Royal Commission have been comprehensively addressed, and we lay out our reasons for this in the Statement of Decision that will be published today.

Today the Commission is satisfied that the **systemic** failings of Crown Melbourne are a thing of the past.

This significant turnaround by Crown Melbourne does not mean that Crown Melbourne will never slip up again – and when this happens, we will act, and we expect Crown Melbourne to act. Ongoing suitability will significantly be demonstrated by how Crown responds to instances of operational failure, not by their total absence.

### **Crown Melbourne's transformation plan**

The Royal Commission indicated that it expected full transformation from the sorry corporate object that Crown Melbourne had become to a world standard example of excellent practice in the delivery of casino services. This is a higher test than suitability.

Whilst the Special Manager is unequivocal in his assessment that Crown is successfully redressing past wrongs, as with Commissioner Finkelstein, he also notes that full rectification of the wrongdoings of the past to world leading excellence is a longer and necessary task. The Special Manager repeatedly urged Crown Melbourne to consider this longer term and how it would complete its remediation task, particularly considering the early stages of some of its most significant reforms.

Crown Melbourne has prepared a Melbourne Transformation Plan that will be at the heart of the Commission's ongoing oversight of Crown along with their legal and social obligations. This Melbourne Transformation Plan provides the next level standard for Crown Melbourne, that of excellence, not just suitability – and the Commission will require Crown Melbourne to deliver it through a statutory direction that will be issued shortly.

### **Expectations of Crown**

Victorians are entitled to have confidence that the Crown Melbourne casino is being run honestly and free from criminal influence and exploitation. In return for the privilege of an exclusive licence, Victorians have a right to expect that Crown Melbourne will never again prioritise profit ahead of the safety and well-being of its patrons and staff.

Crown must continue to seek to rebuild and earn public trust by demonstrating its good character, honesty, and integrity, addressing any operational shortcomings as and when they arise. Suitability was never about perfection. It is about maintaining appropriate operational vigilance in line with its obligations and licence.

Over and above constant monitoring of Crown's behaviour and enforcement of regulations, we are already preparing for the seventh major review of Crown Melbourne in 2027. We will ensure the public can participate in this process and consider avenues for involving the community in our regulatory oversight of Crown.

We believe in the power of public scrutiny. Crown Melbourne will be directed to develop a public reporting framework to demonstrate its continued progress in its transformation.

We recognise the achievements made to date by Crown Melbourne in returning to suitability, but the community may be assured that the Commission will not hesitate to act if the privilege of holding the casino licence is again abused.

For the past two years, Crown Melbourne has probably been the most closely scrutinised casino in the world. The ending of the Special Manager's term in June this year will not leave a void nor a reduction in the level of oversight nor expectation. The VGCCC has been holding Crown to account since its inception and we will continue to do so.