*SGL Hotels Pty Ltd t/as Ovingham Hotel (Bombay Bicycle Club) (No. 2)* **[2025] SALC 87**

**LICENSING COURT OF SOUTH AUSTRALIA**

SGL HOTELS PTY LTD T/AS OVINGHAM HOTEL (BOMBAY BICYCLE CLUB)

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| **JURISDICTION:** | Application for Review of a decision of the Commissioner |
| **CASE NO/S:** | LC-24-00075 |
| **HEARING DATE:** | 21 August 2025 |
| **JUDGMENT OF:** | His Honour Judge BP Gilchrist |
| **DELIVERED ON:** | 21 August 2025<br>(Reasons published 3 September 2025) |

**REPRESENTATION:**

Advocate:
Applicant: Mr G Coppola

Representative:
Applicant: Australian Hotels Association, SA Branch

1 The applicant, SGL Hotels Pty Ltd (SGL) had previously made an application to the Liquor and Gambling Commissioner to vary its authorised gaming hours in respect of the gaming machines it operates at the Ovingham Hotel, otherwise known as the Bombay Bicycle Club, which is situated at 29 Torrens Road, Ovingham

2 The Bombay Bicycle Club trades under a general and hotel licence. Its licence permits it to sell liquor for consumption on the premises between 5.00 am to 3.00 am the following day, Monday to Saturday, and from 8.00 am to 3.00 am the following day, on Sunday. It is therefore permitted to sell liquor for on premises consumption until 3.00 am, seven days a week.

3 SGL owns 40 entitlements for gaming machines at the premises, all of which have been exercised, such 40 gaming machines operate at the Bombay Bicycle Club. Under the gaming machine licence issued for the premises, the current authorised gaming hours are between 6.00 am to midnight, Monday to Thursday, and from 9.00 am to 3.00 am the following day, on Friday, Saturday and Sunday. Special conditions apply for Good Friday, Christmas Day and New Years Day.

4 SGL sought to vary these hours to permit gaming at the premises from 9.00 am to 3.00 am the following day, seven days a week. The effect of the application was to seek an alignment of the closing time for gaming with the closing time for the sale of liquor for consumption on the premises.

5 The application was referred to a delegate of the Commissioner. The delegate resolved to treat the application as a designated application for the purposes of the *Gaming Machines Act 1992* (the GM Act). As such, the delegate could only grant the application if satisfied that it was in the community interest to do so. As it was, she was not so satisfied and therefore refused it.

6 The delegate made a finding that within two kilometres of the premises there were two existing venues that were authorised to permit gaming until 3.00 am every day and that another was authorised to permit gaming until 2.00 am every day. She therefore found that late-night access to gaming machines was already reasonably available within the locality.

7 The delegate expressed concern about an over-representation of young men and renters whom she thought were more likely to experience gambling related harm.

8 The delegate noted that within the locality there were three drug and alcohol treatment centres and two pawnbrokers.

9 The delegate found that the residential and stakeholder consultation did not indicate a particularly high level of support.

10 The delegate expressed particular concern about the potential for players using gaming machines in the early hours of the morning to experience gambling related harm and expressed her dissatisfaction of SGL's evidence of the measures it intended to implement to address this. She added that the evidence indicated that there was a demonstrable increase in gaming at the venue between midnight and 2.00 am and found it reasonable to draw the inference that to grant the application would result in increased gaming at the premises and increased gambling related harm.

11 SGL contended that the delegate made several errors in reaching her conclusion and that this Court should determine the application for itself and should grant it.

12 For reasons published on 29 July 2024,[1] this Court found that the delegate's decision was attenuated by error in the sense that her decision was infected by some erroneous findings of fact.

13 Having resolved that the Court needed to make its own evaluation of the application, the Court noted that the application was a relatively modest one and that there would be some in the relevant community who would welcome the opportunity to use gaming machines in the early hours of the other days of the week, when the premises are already licensed to sell liquor. It also must also be accepted that the grant of the application will result in a very modest positive impact upon employment at the premises.

14 The Court accepted that the change in hours could have some negative implications but added that "a finding of a possibility of increased risk of gambling related harm does not compel the refusal of an application".[2] It reasoned that at worst, the grant of the application might result in a very small increase in gambling related harm and that the delegate's decision to refuse the application outright was disproportionate to that risk. It considered that a preferable outcome would be to grant the application on an interim basis to determine what would be the effect of the change in gaming hours.

15 The matter is now before this Court to evaluate the impact of that change. The Commissioner was made aware of this hearing and it is noted that the Commissioner did not wish to participate in the proceedings.

16 SGL provide statistical data in connection with the gaming revenue for its gaming machines following the change in hours. Whilst it showed some

[1] [2024] SALC 91.
[2] Ibid at [78].

increase in overall revenue the data showed a return to players of 91.385% which is above the mandated minimum. And it demonstrated an overall NGR that is just over 77% of the average NGR for the council area, it being a well populated council area with 21 venues and 787 gaming machines as of 30 June 2024. It noted that there was no evidence of any concerns expressed by the regulator or by any help service because of the extended hours.

17 Having regard to these matters, the Court was satisfied that the interim grant of 29 July 2025 should be made permanent and ordered accordingly.