

Decision and reasons for decision

Disciplinary action against Victoria Amateur Turf Club (Inc The Melb Racing Club) trading as Peninsula Club, located at 1/3 Noel St, Dromana, VIC 3936; The Coach and Horses, located at 33 Maroondah Hwy, Ringwood, VIC 3134 and Steeples, located at Cnr Racecourse and 225 Mornington-Tyabb Rd, Mornington, VIC 3931, under section 3.4.25(1) of the *Gambling Regulation Act 2003*.

Delegate	Jason Cremona Director, Regulatory Services Division Victorian Gambling and Casino Control Commission
Date of decision and reasons	21 March 2025
Decision	<p>Pursuant to the Instrument of Revocation and Delegation dated 1 November 2023 and effective 13 November 2023, I, Jason Cremona, Director Regulatory Services Division of the Victorian Gambling and Casino Control Commission, make this decision under section 3.4.25 of the <i>Gambling Regulation Act 2003</i>.</p> <p>For the reasons attached to this decision, I have found there is a ground for disciplinary action and decided to take disciplinary action against Victoria Amateur Turf Club (Inc The Melb Racing Club) by imposing a fine of \$60,000 for contravening section 3.4.25(1)(d)(ii) at the Peninsula Club, The Coach and Horses and Steeples.</p>
Signed	
	Jason Cremona
	Director Regulatory Service Division
	Victorian Gambling and Casino Control Commission

Contents

Decision and reasons for decision	1
Introduction	3
Background	3
Grounds for disciplinary action	4
Findings on conduct	4
Appropriate action	5
Setting the fine in this case	6

Introduction

- 1) This is the Victorian Gambling and Casino Control Commission's (**VGCCC's**) decision and reasons for the decision regarding disciplinary action taken against Victoria Amateur Turf Club (Inc The Melb Racing Club) (**MRC**) trading as Peninsula Club, located at 1/3 Noel St, Dromana, VIC 3936; The Coach and Horses, located at 33 Maroondah Hwy, Ringwood, VIC 3134 and Steeples, located at Cnr Racecourse and 225 Mornington-Tyabb Rd, Mornington, VIC 3931 under section 3.4.25(1) of the *Gambling Regulation Act 2003* (**the Act**).
- 2) The disciplinary actions arise out of MRC's failure to ensure that its electronic gaming machines (**EGMs**) operated within the permitted trading hours imposed by the Act on Good Friday 29 March 2024 at the three gaming venues noted.
- 3) On 25 October 2024, the VGCCC issued a notice to MRC pursuant to section 3.4.25(2) of the Act to show cause why disciplinary action should not be taken on the grounds specified in the notice (**Notice**)¹.
- 4) On 22 November 2024, MRC made written submissions to the VGCCC in response to the Notice (**Submissions**). MRC indicated in the Submissions that it had sought advice regarding the permitted trading hours on Good Friday from the VGCCC in 2021 and 2022.
- 5) On 28 January 2025, the VGCCC issued a letter to MRC requesting evidence regarding the advice MRC received from the VGCCC in 2021 and 2022.
- 6) On 12 February 2025, MRC submitted a statement (**Statement**) prepared by Ms Stephanie Speakman.
- 7) On 6 March 2025, the VGCCC issued a letter to MRC seeking additional particulars on the Statement (**Additional Particulars**).
- 8) On 14 March 2025, MRC responded to the VGCCC but did not provide the Additional Particulars as requested.
- 9) Pursuant to the Instrument of Revocation and Delegation dated 1 November 2023 and effective 13 November 2023, I, Jason Cremona, Director of the Regulatory Services Division of the VGCCC, make this decision under section 3.4.25 of the Act.
- 10) I am satisfied that the appropriate disciplinary action to be imposed on MRC under section 3.4.25(4) of the Act is a fine of \$60,000 for contraventions of the Act that occurred on Good Friday 29 March 2024 at the three gaming venues noted.

Background

- 11) MRC holds a venue operator licence V9780041 (**Gaming Licence**) for Peninsula Club, The Coach and Horses and Steeples.
- 12) The Act sets out requirements mandating MRC to operate its gaming room within specified hours, including adherence to a mandatory shutdown period between 4am and 10am each day.
- 13) These requirements are safety measures that are designed to safeguard patrons and minimise gambling harm.
- 14) A liquor licence was granted to Peninsula Club, The Coach and Horses and Steeples under the *Liquor Control Reform Act 1998* (Vic) (**Liquor Licence**). The periods that the Liquor Licence authorised the consumption of liquor on the respective premises for the purposes of Part 2 of the Liquor Licence Rules were as follows:
 - a) **Peninsula Club**
 Monday to Saturday (excluding Good Friday and Anzac Day) – At any time
 Good Friday – Between 12 noon and 11:30 pm

¹ The Commission may serve on a venue operator a notice in writing giving the venue operator an opportunity to show cause within 28 days why disciplinary action should not be taken on grounds for disciplinary action specified in the notice.

b) The Coach and Horses

At any time on any day excluding Good Friday and Anzac Day
 Good Friday and Anzac Day – 12 noon and 12 midnight

c) Steeples

On any other day – between 7 am and 3 am the following morning excluding Good Friday and Anzac Day
 Good Friday and Anzac Day – 12 noon and 3 am

Grounds for disciplinary action

- 15) On 25 October 2024, the VGCCC issued a Notice to MRC, which contained grounds for disciplinary action related to the conduct that occurred at Peninsula Club, The Coach and Horses and Steeples.
- 16) In summary, the VGCCC alleged contravention of section 3.4.25(1)(d)(ii) of the Act, namely it is a requirement of a venue operator to comply with the Accounting and Auditing Venue Requirements (AAVR) under section 3.4.1B of the Act.² A venue operator must ensure its gaming room hours of operation comply with all requirements, including but not limited to, the Victorian Gambling and Casino Control Commission rules³ under subsection 4.4 of the AAVR. A breach of this requirement is a contravention of a provision of the Act.
- 17) On 22 November 2024, MRC provided its Submissions to the Notice. As required by section 3.4.25(3) of the Act. I have considered the Submissions, the Statement, the Additional Particulars and the MRC response of 14 March 2025.

Findings on conduct

- 18) The VGCCC's Assurance and Risk Advisory team (**ARA**) detected gaming activity outside the Liquor Licence Hours on 29 March 2024 as follows:
 - a. Peninsula Club – before 12 noon on Good Friday 29 March 2024, multiple EGMs had gameplay with a total EGM net turnover of \$884.40.
 - b. The Coach and Horses – before 12 noon on Good Friday 29 March 2024, multiple EGMs had gameplay with a total EGM net turnover of \$7,804.85.
 - c. Steeples – before 12 noon on Good Friday 29 March 2024, multiple EGMs had gameplay with a total EGM net turnover of \$22,277.93.
- 19) MRC has submitted that it was permitted to continue to trade from Good Friday Eve into the morning of Good Friday, based in summary on the following: -
 - a. the absence of any express prohibition in the liquor licence to trade past midnight on Good Friday Eve into Good Friday; and
 - b. communications with the VGCCC in 2021 and 2022 detailed in the Statement regarding permitted trading hours on Good Friday (**Alleged Advice**).

² At all times relevant to this decision, the AAVR included operational requirements determined by the Commission under section 10.1.5C of the Act. Version 4.6 of the AAVR was in effect until December 2022. Version 4.7 of the AAVR took effect from 10 March 2023 and continues in effect.

³ Part 2 of the Rules made under section 3.5.23 of the Act and published in the No. S33 Wednesday, 21 February 2007 Government Gazette states that a venue operator may offer gaming to a person only during the periods when a licence granted under the Liquor Control Reform Act 1998 in respect of the premises authorises the consumption on those premises.

- 20) I do not accept the Submission that there is an absence of an express prohibition in the liquor licence to trade past midnight on Good Friday Eve into Good Friday. In fact, the liquor licence trading hours expressly states that the permitted trading hours for Good Friday, is from 12 noon and 12 midnight on Good Friday. There is no ambiguity in this express statement that would permit trading before 12 noon on Good Friday.
- 21) The Alleged Advice was to the effect that MRC could trade from Good Friday Eve into the morning of Good Friday. No particulars were provided to the VGCCC on who provided the advice, the specific date the advice was provided nor any written confirmation of the advice, despite a request being made for the Additional Particulars.
- 22) In the absence of the requested Additional Particulars, I am not able to give any weight to the Alleged Advice. This is especially in circumstances where the permitted trading hours are clear and are expressly stated in the liquor licence.
- 23) MRC should obtain its own independent legal advice on compliance with gambling law requirements. However, if MRC intends to rely on legal advice given by a regulator, it must be able to substantiate the giving of the alleged advice by sufficient particulars.
- 24) On the basis of the matters set out above, I am satisfied that MRC, by its conduct on 29 March 2024 at Peninsula Club, The Coach and Horses and Steeples failed to ensure that gaming did not occur outside the Liquor Licence conditions and thereby engaged in a contravention of the AAVR⁴, and giving rise to a breach of a provision of the Act within the meaning of section 3.4.25(1)(d)(ii) of the Act.
- 25) I am also satisfied that MRC offered gaming services to patrons and that gaming occurred outside the permitted hours, namely before 12 noon on Good Friday 29 March 2024 at each of the venues.
- 26) In the circumstances set out above, the grounds for disciplinary action under s. 3.4.25(1)(d)(ii) of the Act are established.

Appropriate action

- 27) Section 3.4.25(1) of the Act provides that the disciplinary action the VGCCC may take is any of the following:
 - a. *the cancellation or suspension of the venue operator's licence;*
 - b. *the variation of the conditions of the venue operator's licence;*
 - c. *the issuing of a letter of censure to the venue operator;*
 - d. *the imposition of a fine on a venue operator not exceeding an amount that is 5000 times the value of a penalty unit fixed by the Treasurer under section 5(3) of the Monetary Units Act 2004 (Vic) on the venue operator.*
- 28) Section 3.4.25(4) entitles the VGCCC to take any of the disciplinary action above against MRC as it sees fit.⁵
- 29) I have concluded that disciplinary action in the form of a fine is warranted for the following reasons:
 - a. **the objective seriousness of this matter:** As stated above, the contravention relates to measures designed to safeguard patrons and minimise the risk of gambling harm.
 - b. **there is a need for both general and specific deterrence:** It is crucial to ensure that the price of such contraventions is sufficiently high to deter MRC, as well as other market participants, from engaging in similar conduct. There is also a need to advance the purposes of Chapter 3 of the Act to ensure compliance with measures designed to safeguard patrons, limit the amount of gaming occurring and minimise harm.

⁴ This is a requirement under section 3.4.1B of the Act that venue operator adhere to operational requirements determined by the Commission under section 10.1.5C of the Act.

⁵ The Commission may then take disciplinary action against the venue operator as the Commission sees fit and does so by giving written notice of the disciplinary action to the venue operator.

- c. **licensees are required to adhere to the requirements of the Act, including the operational requirements set by the Commission:** Imposing fines for non-compliance with permitted trading hours ensures a level playing field among venue operators. If some venue operators are allowed to operate outside of permitted hours without significant consequences, it will create an unfair advantage and encourage others to flout the requirements for liquor licence hours, mandatory shutdown periods, and nominated gaming hours. Enforcing compliance ensures licensees like MRC are held accountable for following the law.

Setting the fine in this case

- 30) The VGCCC has set out its general approach to setting a fine when taking disciplinary action in other determinations, but it does not repeat that here.⁶ Rather, I provide reasons for concluding that a fine of \$60,000 is an appropriate penalty in this case's circumstances.
- 31) The maximum penalty that may be imposed in this case is \$987,950.
- 32) While the setting of a fine is not a mathematical exercise, I consider that a fine at this level is at the appropriate range and is proportionate to the contravention.
- 33) In determining the appropriate level of fine, I have considered:
 - a. the relative size of MRC and its ability to pay the fine.
 - b. that the contravention occurred in the venues operated by MRC across 6, 28 and 54 EGMs, with a total EGM net turnover of \$884.4, \$7,804.85 and \$22,277.93 for 36 minutes, 2 hours and 46 minutes and 2 hours 47 minutes gameplay, outside the permitted hours at Peninsula Club, The Coach and Horses and Steeples, respectively.
 - c. this is MRC's first contravention of trading hour requirements.
 - d. It is mitigating factor that MRC has agreed to rectify its approach in future years to comply with the liquor licence hours stated in the liquor licence for each of the venues.
- 34) In setting the fine, I have considered the need for a fine that will achieve the required deterrence, both specific and general, to hold MRC to account for the contravention and to deter other entities that operate EGMs.
- 35) In summary, I consider the fine, in this case, balances the various competing considerations that are relevant to setting a fine. What this disciplinary action shows to MRC and to other venue operators is that non-compliance with the liquor licence hours, nominated gaming hours and mandatory shutdown requirements will not be tolerated by the VGCCC.

⁶ See the VGCCC's reasons for decision in disciplinary action taken against the casino operator for the 'China Union Pay' process.

(https://www.vgccc.vic.gov.au/sites/default/files/vgccc_decision_-_china_union_pay_0.pdf) and Responsible Service of Gambling failings (https://www.vgccc.vic.gov.au/sites/default/files/reasons_for_decision_rsg_da.pdf).