



7 September 2021

Ms Jennifer Holmes
Chairperson of Board
Monbulk Bowling Club
PO Box 30
MONBULK VIC 3793

By email: jennifermholmes@yahoo.com

Dear Ms Holmes

Monbulk Bowling Club Inc – Application for variation of conditions – Monbulk Bowling Club - decision

I refer to an application, dated 26 April 2021, by Monbulk Bowling Club Inc (**Applicant**) to vary the conditions of its venue operator's licence imposed by a decision of the Victorian Commission for Gambling and Liquor Regulation (**Commission**) dated 22 August 2019 (**Original Decision**).

Background

In the Original Decision, the Commission approved a variation to the number of electronic gaming machines (**EGMs**) at the Monbulk Bowling Club, 11 Moore Street, Monbulk (**the Club**), from 30 to 40 EGMs, subject to conditions outlined in Appendix A of the Original Decision (**Original Conditions**).

Condition (1)(b) of the Original Conditions included building works to be carried out at the Club (**the Works**). The Works consist of:

- (i) *the reconfiguration of the Gaming Room (inclusive of the installation of the Additional EGMs) situated in the Lower Ground Floor of Premises in accordance with drawing no. TP1.12 dated 10 January 2019 contained in Appendix 2 of the Social and Economic Impact Assessment prepared by NBA Group dated February 2019 (SEIA) (Stage 1); and*
- (ii) *the renovation of the Ground Floor in accordance with drawing no. TP3.14 dated 10 January 2019 contained in Appendix 2 of the SEIA (Stage 2).*

The Original Conditions required Stage 1 of the Works to be substantially completed within 12 months of the date of the Original Decision, or by 22 August 2020.

Condition (2)(a) of the Original Conditions included minimum annual community contributions to be made (**the Contributions**). The Contributions consist of:

the Venue Operator will make cash contributions annually in the sum of \$30,000 (increased each year by CPI) (the Contributions) (comprised of existing cash contributions of \$15,000 and the additional cash contributions of \$15,000, proposed by the Application) for each financial year during which any of the Additional EGMs are in operation at the Premises.

Variation Applications

On 14 April 2020, the Commission received an email from you applying for an extension of time for the completion of Stage 1 of the Works as outlined in the Original Conditions, under section 3.4.17 of the *Gambling Regulation Act 2003 (GR Act)*. On 13 August 2020, the Commission granted this variation application and confirmed that the conditions of the Original Decision were amended and Stage 1 of the Works must be substantially completed by 31 January 2021.

You have submitted that Stage 1 of the Works was completed in April 2021 at a cost of approximately \$900,000. The newly refurbished venue reopened in December 2020 and the additional ten EGMs were operational at the Premises.

Subsequently, on 26 April 2021, the Commission received a further email from you applying for a variation to the Original Conditions in relation to Stage 2 of the Works and the minimum annual community contributions, under section 3.4.17 of the GR Act (**Variation Application**). In your email, you submitted that due to the lockdown of the Club's gaming, bar and bistro business for most of 2020 because of COVID-19 restrictions, the club was struggling to fulfil several of the Original Conditions.

Stage 2 of the Works

The Variation Application is limited to Stage 2 of the Works only, that is the upstairs part of the building including the bistro, clubroom and kitchen.

On 10 August 2021, you provided the Commission with a table comparing the difference between what was proposed in the Original Decision and what is proposed in the Variation Application, along with a spreadsheet that set out what the Applicant had already spent on the kitchen upgrade (as part of Stage 2 of the Works) to August 2021.

In relation to Stage 2 of the Works, you sought to vary the conditions of the works from what was proposed in the Original Decision:

- (a) Refurbishment of the bistro and kitchen facilities;
- (b) Flipping of the upstairs layout in respect of the club and bistro demarcation and installation of an alfresco component;
- (c) Installation of an all-day café and lounge; (and)
- (d) Installation of a fireplace and more comfortable seating at the centre of the club and bistro;

And reduce the scope of Stage 2 of the works to;

- (a) The refurbishment and upgrade of the bistro and kitchen that has been completed so far, including an extended pantry area, new appliances and exhaust canopies at a cost of \$77,045.79. Further, the Club intends to paint the walls and ceiling, install new carpet, new floor vinyl around the bar, new plants, furniture and lighting. This is a high priority for the Club;
- (b) The Club no longer seeks to flip the upstairs layout, due to the considerable building costs to relocate the bowlers' kitchenette and the bowlers' office;
- (c) The Club no longer seeks to create an all-day café and lounge, due to the restrictions and closures of the past 18 months, and the shortage of hospitality workers. The Club will delay this expansion; (and)
- (d) While the fireplace is still sought, the Club considers that it is not near the top of the must-have list. Additionally, the flooring in that area has dropped and therefore restumping will be necessary. This was not in the Club's original planning.
- (e) You have submitted that you regard everything else in Stage 2 of the Works as achievable within the original timeline and that the Club now intends to complete an initial refurbishment, to smarten up the bistro and clubroom, within a limited budget of \$300,000. Following this, when the pandemic restrictions ease and the Club has rebuilt cash reserves, architects will be engaged for a more thorough refurbishment, as was done with Stage 1 of the Works.

(together, the **Proposed Works**)

At the time of the Original Decision, both stages of the Works were costed at approximately \$1.727 million. You have submitted that \$900,000 was spent during Stage 1 of the Works and \$77,045.79 has been spent so far on the kitchen upgrade. You have submitted that the Applicant intends to complete Stage 2 of the Works within the original timeline -- 36 months from the date of decision (being 22 August 2022). The Commission refers to condition (1)(e), in Appendix A of the Original Decision:

the application for an extension of time to complete the Stage 2 Works must be made at least 30 days prior to the expiry of the 12 month period for completion of Stage 1 and the 36 month period for completion of the Works. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.

Community Contributions

You have submitted that the Club's 30 EGMs have been out of use since 23 March 2020, due to the COVID-19 restrictions. The Applicant had allocated community donations prior to then, with no anticipation of the pandemic and resulting restrictions. Despite suffering a loss of \$27,508 for the financial year ending June 2020, the Club still provided community contributions of \$11,693.

You have submitted that for the past few years, the Board has aimed at donating at least 10% of the Club's net profit to the community, and therefore you proposed a variation to the minimum annual community contributions of this kind.

(the Proposed Community Contributions)

Decision and Reasons for Decision

The Commission has considered the material filed and submissions made by the Applicant in this matter.

The Commission has determined that the test to be applied in considering variation of condition requests such as this is whether the Variation Application, if granted, would involve a substantially similar benefit to the local community to that reflected in the Original Decision and Original Conditions, and, if it does, whether the Commission should exercise its discretion to vary the conditions considering the objects of the GR Act.

The Commission considers that it is appropriate to grant the Variation Application for the following reasons:

Stage 2 of the Works

- (a) The Commission's view is that the completion of the Works in accordance with the Variation Application (the Proposed Works) will be 'completion to the satisfaction of the Commission' as set out in condition 1(a) of the Appendix of the Original Decision;
- (b) The Commission is satisfied that there is reasonable justification to vary Stage 2 of the Works as the works are only being varied to accommodate the variation in gaming revenue is a result of the COVID-19 restrictions;
- (c) The Commission considers that the benefit to the local community flowing from the Works is not impacted in any significant way, when compared with the Works as considered in the Original Decision;
- (d) The Applicant has advised the Commission that the construction work involved in the Works may be substantially completed by 22 August 2022, although this is dependent on factors such as any further issues with the existing building and the impact of COVID-19.

Community Contributions

- (e) The Commission is satisfied that there is reasonable justification to vary the Contributions, in light of the reduction in gaming revenue experienced as a result of the COVID-19 restrictions.
- (f) The Commission has had regard to the Proposed Community Contributions, however considers that the payment of the Contributions will be delayed, and that requiring some form of payment would give certainty to the Yarra Ranges community, while taking into account the pressures on the Club's finances caused by the COVID-19 pandemic.
- (g) The Commission therefore determines it appropriate in the circumstances to exercise its discretion to extend the period for payment for the Contributions for the years ending June 2022 and June 2023, and aggregated into a requirement to make a cash contribution of \$60,000 by 30 June 2023, with at least \$10,000 of this amount to be made by 30 June 2022.

Accordingly, the Commission confirms the conditions of the Original Decision are amended as follows:

...

1. WORKS

...

(b) *The works shall consist of:*

- (i) *the reconfiguration of the Gaming Room (inclusive of the installation of the Additional EGMs) situated on the Lower Ground Floor of Premises in accordance with drawing no. TP1.12 dated 10 January 2019 contained in Appendix 2 of the Social and Economic Impact Assessment prepared by NBA Group dated February 2019 (SEIA) (Stage 1); and*
- (ii) *the renovation of the Ground Floor in accordance with drawing no. TP3.14 dated 10 January 2019 contained in Appendix 2 of the SEIA (Stage 2), as amended by the Variation Application provided to the Commission by the Monbulk Bowling Club on 26 April 2021 and 10 August 2021 (Stage 2); and*

...

(c) *The Stage 2 Works must be substantially completed by 21 August 2022*

...

2. COMMUNITY CONTRIBUTIONS

(a) *The Venue Operator will undertake to do the following:*

- (i) *Make cash contributions in the sum of not less than \$60,000.00 by 30 June 2023 (Cash Contribution), with at least \$10,000.00 of this amount to be made by 30 June 2022.*
- (ii) *The Contributions will be allocated each financial year to community groups and associations in accordance with the Venue Operator's guidelines for Community Support Applications to provide a clear benefit to the local community in the Shire of Yarra Ranges.*

...

For the avoidance of doubt, the Commission confirms that the conditions otherwise remain the same as those in the Original Decision dated 22 August 2019.

If you have any queries, please do not hesitate to contact Paul Davies, Senior Solicitor, Legal Services, on 9098 5371 or paul.davies@vcglr.vic.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ross Kennedy', with a large, stylized flourish at the end.

Ross Kennedy
Chair