

26 October 2022

Our ref: CF/22/747

Ms Jenny Holmes
Board Chair
Monbulk Bowling Club
PO Box 30
MONBULK VIC 3793

By email only: jennifermholmes@yahoo.com

Dear Ms Holmes

Application for extension of time to complete works – Monbulk Bowling Club Inc – Decision

The Victorian Gambling and Casino Control Commission (**Commission**) confirms receipt of your correspondence dated 23 May 2022, 26 August 2022, 7 October 2022, 17 October 2022 and 26 October 2022 together with the associated documents and photographs submitted on behalf of Monbulk Bowling Club Inc (**Applicant**), in relation to the above matter.

Background

As you know, on 19 August 2019, the Commission granted an amendment to the Applicant's Venue Operator's Licence under section 3.4.17 of the *Gambling Regulation Act 2003 (GR Act)* to increase the number of Electronic Gaming Machines (**EGMs**) permitted at the premises known as the Monbulk Bowling Club, located at 11 Moores Road, Monbulk (**Premises**) from thirty (30) to forty (40) (**Original Decision**) subject to conditions outlined in Appendix A of the Original Decision (**Original Conditions**).

The following year on 14 April 2020, the Applicant applied to the Commission to extend the time for substantial completion of Stage 1 of the building works at the Premises from 19 August 2020 until 31 January 2021 at the Premises (**First Extension**). On 12 August 2020, the Commission granted the First Extension.

On 26 April 2021, the year after the First Extension was granted, the Applicant applied to the Commission to reduce the scope of Stage 2 of the building works at the Premises and requested that the Commission exercise its discretion to extend the time for payment of the community contributions due to the impacts of the COVID-19 pandemic (**Second Extension**). The Applicant claimed it intended to complete the building works within the original timeline (being 21 August 2022). On 7 September 2021, the Commission granted the Second Extension. The Commission also determined to extend the period of payment for community contributions for the years ending June 2022 and June 2023 and aggregated into a requirement for the Applicant 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.

Third Extension

On 23 May 2022, the Applicant applied to the Commission for a third extension of time to complete Stage 2 of the building works at the Premises, from 21 August 2022 to mid-2023 (**Third Extension**). The Applicant provided further information for the Commission's consideration on 26 August 2022.

On 17 October 2022, the Applicant amended the date to for its requested extension of time to substantially complete Stage 2 of the building works at the Premises, from mid-2023 to 31 January 2023 (**Amended Third Extension**).

Interim Extensions

On 19 August 2022, the Commission granted an interim extension of time until 23 September 2022 to consider the Amended Third Extension.

On 21 September 2022, the Commission granted a second interim extension of time until 26 October 2022 to consider the Amended Third Extension.

Council Submissions

On 6 September 2022, the Commission provided a copy of the Third Extension to Yarra Ranges Shire Council (**Council**) and provided an opportunity for the Council to submit information it wished to bring to the Commission's attention.

On 29 September 2022, Council provided to the Commission an updated Socio-economic characteristics impact data of Monbulk-Silvan report. This report outlined increases in the key community risk factors¹ post Council's 2019 submission to the Commission.

Council submitted that "giving consideration to the significant escalations in the key community risk factors post the Yarra Ranges 2019 submission, Council believes the application for an extension for completion of the Stage 2 works at the premises will have an increased detrimental impact on the communities of Monbulk and surrounds and declines to support the application."

Applicant's Submissions

Submissions received from the Applicant on 23 May 2022 set out the rationale for the Third Extension request which included (in summary):

- the Applicant was optimistic about the timeframe for the completion of the Stage 2 of the building works by 21 August 2022 at the time the Second Extension request was made;

¹ These include cost of living increases; pandemic and storm impacts; home ownership and rental costs; key demographic and health characteristics; family violence increase; and electronic gaming machine losses.

- the impact of the rising cost of building materials and labour shortage post stage 6 lockdown in Victoria could not have been foreseen by the Applicant when the Second Extension request was made;
- the Applicant has had to reduce trading hours at the Premises on several occasions due to staffing shortage as a result of COVID-19; and
- the Applicant has spoken with a new builder (a smaller contractor), in the hope that they can squeeze more value from their budget despite rising cost of building materials and labour shortage problems.

Submissions from the Applicant on 26 August 2022 in response to the Commission's request for clarification and elaboration included (in summary):

- Photographs indicating that Stage 2 building works at the Premises commenced around August 2022;
- A spreadsheet outlining the remaining Stage 2 building works to be completed at the Premises;
- An explanation that the Applicant "are a long way off from the finish post", and following works were yet to be completed:
 - installation of the air-conditioning, fireplace, technology, carpet, and vinyl flooring;
 - construction of the bar area and the ceiling;
 - painting of the newly renovated area;
 - demolition of the stage and construction of a new bowlers' kitchenette, a bowls office; and
 - reinstate the honour boards in the new clubroom; and
- That the applicant was "quietly optimistic that we will be operating in our new rooms by summer." To be safe they had asked for an extension to mid-2023².

Submissions from the Applicant on 7 October 2022 in response to Council's position included (in summary):

- the Applicant did not directly respond to the submissions made by Council but instead provided a copy the Original Decision for the Commission's consideration;
- the Applicant provided photographs indicating the progress of the renovations at the Premises as at 7 October 2022; and
- the photographs show that the bistro side of the Premises is almost complete, and that the bowler's side of the Premises is the primary focus of the renovations;

² Which was reduced to 31 January 2023 in the Amended Third Extension.

Submissions from the Applicant on 17 October 2022 in response to further Commission queries included (in summary):

- the Applicant provided recent photographs indicating that the Stage 2 building works nearly complete;
- the Applicant advised that they have had to push back the opening date of the bistro because there has been “a whole lot of little things that are delaying us, like the new tablets for table service and the wiring for the new tills”; and
- the Applicant advised that construction work on the bowlers' clubroom was progressing. However, the builders have said that the completion date will be mid-November for the bowlers' room. Accordingly, the Applicant has put forward the amended date for their request until 31 January 2023 to accommodate for any unexpected delays.

Submissions from the Applicant on 26 October 2022 in response to payment of community contributions as required by the Second Extension:

- the Applicant provided evidence that they have contributed \$15,000 for the financial year 2021-2022 to the following organisations:
 - Monbulk College – \$2,000.00;
 - Maccelsfield CFA – \$2,400.00;
 - Madcow Car Show – \$3,500.00;
 - Monbulk Cricket Club – \$5,000.00; and
 - Monbulk CFA – \$2,100.00.

Decision

The Commission has considered the material filed, the submissions made by the Applicant and the Council.

The Commission reiterates to the Applicant that the obligation under the Original Conditions and amended conditions regarding the Second Extension was for the “*substantial completion of building works*” to be done by a date as required by the Commission (being 21 August 2022)

The Commission acknowledges that there have been delays with progressing Stage 2 building works post COVID-19 lockdowns in Victoria and it expects Stage 2 building works to continue without delay and progress expeditiously.

The Commission understands whilst successive lockdowns previously impacted progress of the building works the Commission expects the building works to be finalised given the time frame in the Amended Third Extension.

The Commission has determined that it is appropriate that further operation of the additional EGMs should not continue whilst the final part of the Stage 2 building works are completed.

The Commission therefore considers it is appropriate in the circumstances to exercise its discretion to extend the time for substantial completion of the building works until 31 January 2023 as sought in the Amended Third Extension. In exercising this discretion to extend the time for completion, the Commission also considers it is appropriate in the circumstances to require that the additional ten (10) EGMs cease operation from 5pm 27 October 2022 during the period of extension granted by the Commission, which is until 31 January 2023³. The Commission expects that the Stage 2 building works must be completed by this date and notes there is a real likelihood that the Commission may consider it not appropriate to grant any further extension of time.

For clarity if the Stage 2 building works are substantially completed prior to 31 January 2023 then the operation of additional ten (10) EGMs can recommence at the Premises. If the Stage 2 building works are not substantially completed by 31 January 2023, then the approval to operate the additional ten (10) EGMs at the Premises will lapse.

Accordingly, the Commission hereby amends the Original Conditions as follows:

1. In relation to condition 1(a) of the Original Decision, it will now read
 - (i) *“(a) The Stage 2 Works at the Premises (as defined in clause 1(b)(ii)) must be substantially completed to the satisfaction of the Commission by 31 January 2023.*
 - (ii) *The additional 10 electronic gaming machines (Additional EGMs) are not permitted to operate at the Premises from 5pm on 27 October 2022 until the Stage 2 Works are substantially completed to the satisfaction of the Commission.*

2. The Commission removes condition 1(c) of the Original Decision.

3. The Commission amends condition 1(d) of the Original Decision, so it will now read as follows:

“(d) If condition 1(a)(i) is not complied with, the approval of the Additional EGMs will lapse and the Commission will reduce the number of electronic gaming machines in operation at the Premises in accordance with section 3.4.20(3E) of the Gambling Regulation Act 2003.

4. In relation to condition 1(e) of the Original Decision, the Commission removes this condition:

“(e) The Commission may, on the request of the Venue Operator, agree to extend the time for completion of any stage of the Works referred to in condition 1(b). The application for an extension of time to complete the Stage 1 Works must be made at least 30 days prior to the expiry of the 12 month period for completion of Stage 1. 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 36 month

³ As contemplated by the Second Extension decision of the Commission dated 7 September 2021.

period for completion of the Stage 2 Works. Any request for an extension of time must include an explanation as to why the Works have not been substantially completed.”

5. In relation to condition 1(f) of the Original Decision, the Commission removes this condition:

“(f) If the Commission agrees to extend the time for completion of any stage of the Works in accordance with condition 1(e), the Commission may require that any of the Additional EGMs cease operation during the period of any extension of time granted by the Commission.”

The Commission confirms that in all other respects the conditions attaching to the approval set out in the Original Decision remain unaltered.

If you have any queries, please contact the Commission Secretariat by email at Secretariat@vgccc.vic.gov.au.

Yours sincerely



Claire Miller
Commissioner
Victorian Gambling and Casino Control Commission