

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY AUCKLAND LIMITED** to designate Gambling Area and for approval of design changes

BEFORE THE GAMBLING COMMISSION

Members Present: P Chin (Chief Gambling Commissioner)
K M Ford
M M Lythe
P J Stanley
G L Reeves

Date of Application: 5 October 2006

Date of Decision: 16 November 2006

Date of Notification
of Decision: 1 December 2006

DECISION

ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED TO DESIGNATE GAMBLING AREA AND FOR APPROVAL OF DESIGN CHANGES

Application

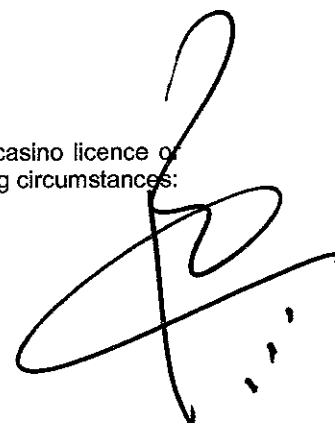
1. SKYCITY Auckland Limited ("**SCAL**") applied to the Gambling Commission (the "**Commission**"):
 - (a) under section 139 of the Gambling Act 2003 (the "**Act**") to specify, as Gambling Area at level 2 of the casino, the area delineated on Plan "A1" attached to its application; and
 - (b) for approval, under condition 6 of its venue licence, of design changes to the smoking deck on the western wall of the casino.

Gambling Act 2003 and licence conditions

2. Section 139 of the Act provides as follows:

Conditions of casino licence

1. The Gambling Commission may specify the conditions of a casino licence or vary or revoke the conditions of a casino licence in the following circumstances:
 - (a) on granting a casino operator's licence:
 - (b) on renewing a casino venue licence:



- (c) on approving a casino venue agreement or an amendment to it;
 - (d) on application by the holder of the casino licence;
 - (e) on its own initiative or on the request of the Secretary
2. A condition of a casino licence specified under subsection (1) –
- (a) must be consistent with this Act; and
 - (b) must contribute to achieving the purposes of this Act; and
 - (c) must contribute to the efficient and effective administration of this Act; and
 - (d) must not permit an increase in the opportunities for casino gambling; and
 - (e) may relate to any matter, including the matters specified in Schedule 1, within the confines of paragraphs (a) to (d)

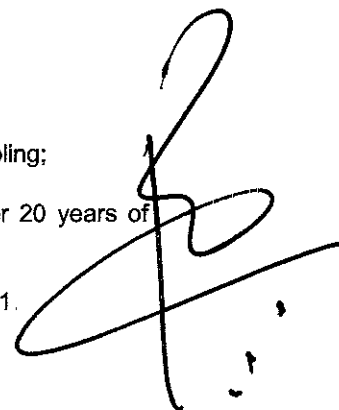
3. The relevant licence conditions are as follows:

SCAL venue licence

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Levels 2 and 3, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, and the back of house areas used by staff (unless construction or design changes to any of these excluded areas may impact on matters set out in condition 7 in which case prior approval must be sought);
 - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
 - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 2 and 3, including the Gambling Area (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) and (c).

7. The Licence Holder must notify the Executive Director of any proposed changes to the construction or design of Levels 2 and 3, including the Gambling Area but excluding SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, and the back of house areas used by staff. Notification must be accompanied by relevant drawings and an assessment of any impacts the alterations may have on:
- (a) the integrity and fairness of games;
 - (b) the effectiveness of security and surveillance;
 - (c) harm prevention, harm minimisation and responsible gambling;
 - (d) potential access to the Gambling Area by persons under 20 years of age; and
 - (e) compliance by any person with the Act, including section 11.



The Executive Director may approve the proposed changes to the construction or design if he or she is satisfied that there are no adverse impacts in relation to the matters specified in (a)-(e) above. If the Executive Director is not satisfied, he or she will refer the proposal to the Commission for determination.

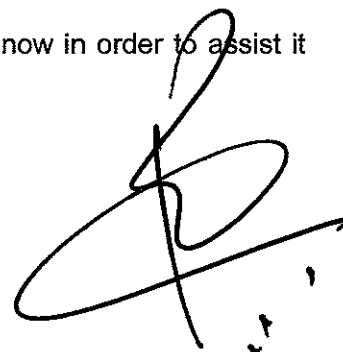
9. The Gambling Area within the casino venue comprises the area specified in plans marked "A" and "B" dated 22 October 2004.

Submissions by SCAL

4. SCAL obtained approval for an extension to the western side of Level 2 in September 2006 (decision GC27/06) and wants to include this as part of the casino's designated Gambling Area.
5. SCAL submitted that designating the additional floor space as Gambling Area:
 - (a) would maximise its flexibility with forward planning; and
 - (b) would minimise disruption to the gaming floor during the refurbishment project including:
 - (i) relieving some of the pressure to find temporary locations for tables and machines; and
 - (ii) relieving most of the pressure on the 15:1 ratio of gaming machines to table games; and
 - (c) would not increase opportunities for casino gambling as there would be no increase in the number of tables, machines or wagering positions; and
 - (d) complied with section 139(2) of the Act.
6. SCAL submitted that the alteration of the smoking deck would have no impact on any of the matters listed in licence condition 7 of its venue licence.

Submissions by the Secretary

7. The Secretary had no objection to the design changes to the smoking deck or the designation of the extension as part of the casino's Gambling Area, but did question whether the latter application should be determined now, or at a later date, when the extension becomes a reality.
8. In reply, SCAL stated that it wanted the application determined now in order to assist it with forward planning.

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Analysis

9. The Commission was satisfied that the proposal to extend the Gambling Area was consistent with section 139(2) criteria and sections 11 and 12 of the Act, prohibiting increases in opportunities for casino gambling.
10. In decision GC10/06 (an application by Otago Casinos Limited for an amendment of licence condition and approval of alternative game mix) the Commission noted that it continues to reflect upon its approach to the assessment of opportunities for casino gambling, and considered there to be merit in the view that opportunity is concerned principally with the theoretical maximum level of permitted gambling activity, irrespective of the attractiveness or accessibility of the potential activities.
11. The Commission noted that the current application was aimed at reducing space constraints, and that there would be no increase in table numbers, machine numbers, player spaces or the size of tables. It concluded, accordingly, that the proposal would not increase the theoretical maximum level of permitted gambling activity.
12. The Commission was also satisfied that there are benefits in allowing the application at this point in time, rather than deferring until the extension is complete, as it would assist SCAL to manage the refurbishment project, and maintain the ratio of 15 gaming machines to every gaming machine.
13. The Commission was satisfied that the design changes to the smoking deck did not give rise to any issues of regulatory concern.

Decision

14. The Commission unanimously decided to approve the application for design changes to the smoking deck on the western wall of the casino, and to designate the extension as Gambling Area.
15. Licence condition 9 of SCAL's venue licence will be amended to read as follows:

The Gambling Area within the casino venue shall comprise the area specified in plan 'A1' and 'B' dated 1 December 2006 attached to this decision.

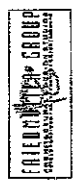
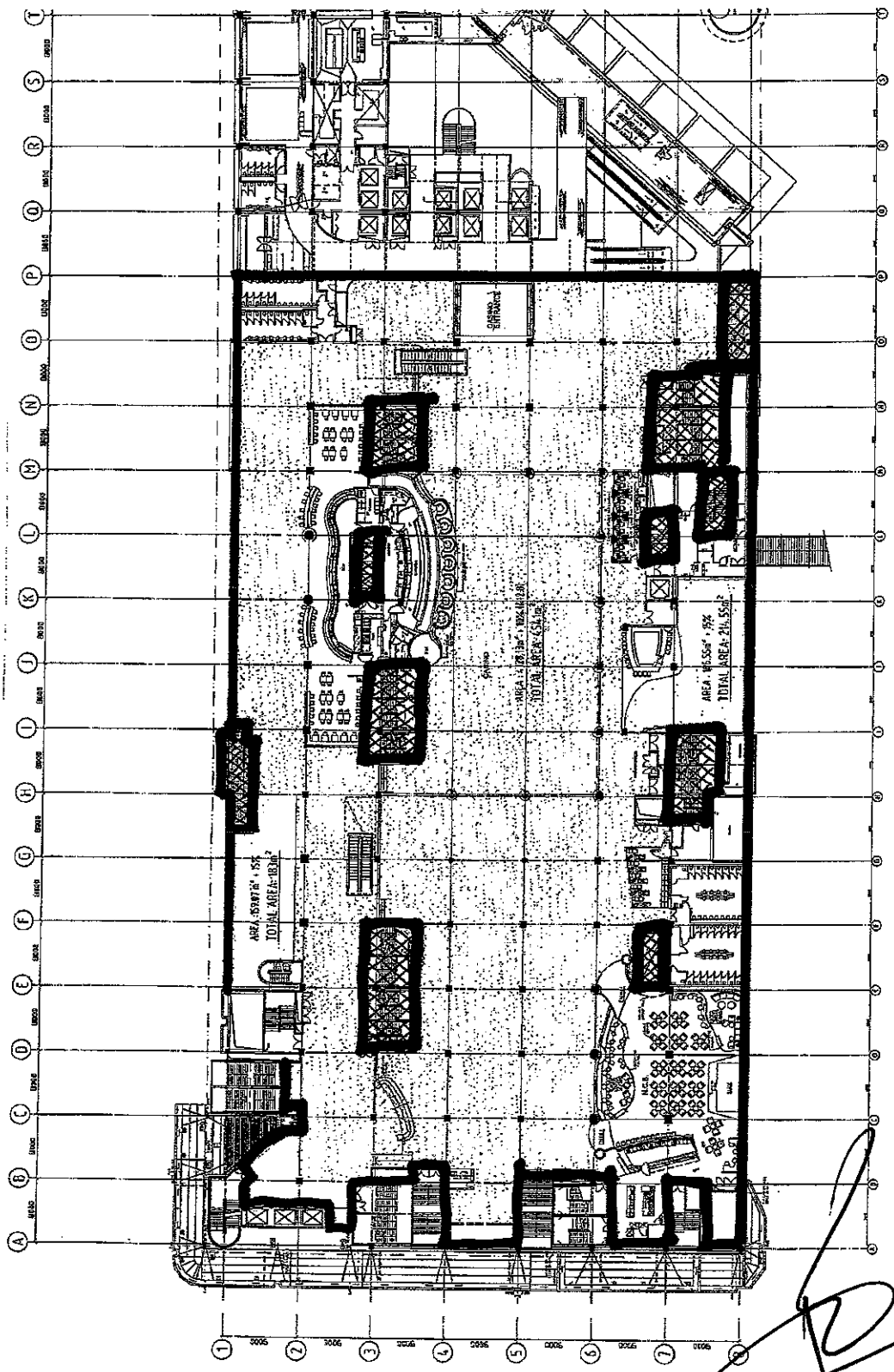
16. Plans 'A1' and 'B' are appended to this decision.


Peter Chin
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

1 December 2006

PLAN "A1"
 Excluded from:
 Gambling Area



SKY CITY ENTERTAINMENT GROUP
 MAIN GAMING FLOOR
 DELI / NOODLE / CENTRE BAR

CLIENT AND PROJECT

SKY CITY ENTERTAINMENT GROUP
 MAIN GAMING FLOOR
 DELI / NOODLE / CENTRE BAR

DATE: 03/11/2010
 TIME: 10:00 AM
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