

**IN THE MATTER** of the Gambling Act 2003

**AND** on an application by **SKYCITY CASINO MANAGEMENT LIMITED** for approval to install two new cash-dispensing EFTPOS terminals in the Gambling Area at the Auckland Casino

**BEFORE THE GAMBLING COMMISSION**

Members: L M Hansen (Chief Gambling Commissioner)  
D C Matahaere-Atariki  
W N Harvey  
S C L Pearson

Date of Application: 3 December 2019

Date of Decision: 14 February 2020

Date of Notification  
of Decision: 23 March 2020

**DECISION ON AN APPLICATION BY SKYCITY CASINO MANAGEMENT LIMITED FOR APPROVAL TO INSTALL TWO NEW CASH-DISPENSING EFTPOS TERMINALS IN THE GAMBLING AREA AT THE AUCKLAND CASINO**

**Introduction**

1. SKYCITY Casino Management Limited ("**SCML**") applied to the Commission for approval, under condition 13 of SCML's operator's licence for the Auckland casino, to install two additional cash-dispensing EFTPOS terminals in the Gambling Area of the Auckland casino. If approved, the number of cash-dispensing EFTPOS terminals would increase from 22 to 24.
2. The Commission sought written submissions on the application from the Secretary for Internal Affairs (the "**Secretary**"), Ministry of Health ("**MoH**"), Problem Gambling Foundation ("**PGF**"), and Salvation Army/Oasis ("**SA**"). It received submissions from all parties. SCML lodged written submissions in reply.

**Licence conditions**

3. The relevant licence conditions are as follows:

**SCML operator's licence (Auckland casino)**

12. A maximum of 10 automatic teller machines are permitted in the Casino Venue outside the Gambling Area.
13. The Licence Holder is prohibited from dispensing cash from EFTPOS and like devices in the Gambling Area unless approved by the Commission. The approval of the Commission shall be revocable at the discretion of the

Commission and may be subject to such conditions as the Commission may from time to time impose.

14. The Licence Holder is prohibited from using mobile EFTPOS terminals (cash or non-cash dispensing) or like devices in the Gambling Area unless approved by the Commission. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.

**SCAL venue licence (Auckland casino)**

12. (i) The Licence Holder shall maintain at least one principal cashiering facility on each level of the gaming floor which is clearly visible to patrons. Each such cashiering facility shall as a minimum requirement include the following:
- (a) accommodation for general cashiers;
  - (b) storage facilities for cashiering inventory;
  - (c) manually triggered and automatic silent alarm systems connected directly to monitor rooms of the security and surveillance departments.
- (ii) The Licence Holder may provide accommodation for chip bank cashiers in the principal cashiering facility which shall be physically separate from general cashiers unless the Commission approves otherwise.
- (iii) Chips and plaques held in reserve and not used for active gaming shall be housed in a locked compartment within the chip bank.

**Regulations**

4. The relevant regulations from the Gambling (Harm Prevention and Minimisation) Regulations 2004 (the "Regulations") are as follows:

**5. Restriction on automatic teller machines in class 4 and casino venues**

The holder of a class 4 venue licence or casino operator's licence must ensure that there are no automatic teller machines available in the gambling area of a venue in which it conducts gambling.

**11. Requirement to provide information about problem gambling**

The holder of a class 4 venue licence or casino operator's licence must, at a venue at which it conducts gambling,—

- (a) make available to players—
  - (i) pamphlets providing information about the odds of winning on gaming machines;
  - (ii) information about the characteristics of problem gambling (including the recognised signs of problem gambling) and how to seek advice for problem gambling; and
- (b) display signage that is clearly visible to all players that—
  - (i) encourages players to gamble only at levels they can afford;
  - (ii) contains advice about how to seek assistance for problem gambling.

**Submissions by SCML**

5. SCML submitted, in summary, that:
- (a) In June 2019, as part of wider construction and design changes on level 6, the Commission approved the installation of a new cashiering facility.
  - (b) The new cashiering facility will service two new VIP gaming machine rooms, VIP Black and Ultra Black. The cashiering facility is designed to accommodate three cashiering stations to service these areas, which will require the installation of three cash-dispensing EFTPOS facilities.
  - (c) The Commission has previously approved the installation of 22 cash-dispensing EFTPOS terminals in the seven existing, approved locations within the Gambling Area (Main Cage, Diamond Room, Platinum Room, VIP Black, Baccarat Toom, Eight and Rouge). In decision GC03/19, the Commission allowed the relocation of cash-dispensing EFTPOS terminals between these approved locations subject to prior notification to both the Secretary and the Commission.
  - (d) The creation of a new cashiering location on level 6 to service VIP Black/Ultra Black, and the decision to repurpose the existing VIP Black Room to become an extension of the Platinum Room, means the description of the previously approved cashiering locations requires minor amendment.
  - (e) It seeks approval to install two further cash-dispensing EFTPOS terminals across the approved locations, which will increase the number from 22 to 24.
  - (f) The 22 currently approved EFTPOS terminals were approved in decision GC16/05. There has been no increase to the number of cash-dispensing terminals since that time. However, as a result of the regulatory concessions granted pursuant to the NZICC agreement, the casino footprint and product has expanded considerably since 2005. With the introduction of the new facilities on level 6 and the repurposing of the existing VIP gaming machine facility on level 1, it is now in a position where it needs to seek a modest increase to the number of cash-dispensing EFTPOS facilities throughout the complex. The current and proposed locations, and numbers, are as follows:

Current location	EFTPOS number	New Location	EFTPOS number
Main Cage	8	Main Cage	8
Diamond Room	3	Diamond Room	3
Platinum Room	2	Platinum Room	4
VIP Black	2	VIP Black	3
Baccarat Room	2	Baccarat Room	2
Eight	3	Eight	3
Rouge	1	Rouge	1
Spare	1	Spare	0
<b>Total</b>	<b>22</b>	<b>Total</b>	<b>24</b>

- (g) It may wish to relocate EFTPOS terminals from one new location to another, but in such circumstances would never exceed the specified total number of terminals.
- (h) Multiple declined EFTPOS transactions may be a general indicator of problem gambling and have been identified as such in its Problem Gambling Identification Policy. EFTPOS transactions will continue to be monitored for such indicators and the addition of two further terminals will not have any adverse impact on the vigilance it brings to this area.

#### **The Secretary's submissions**

6. The Secretary submitted, in summary, as follows:
- (a) He does not object to the application.
- (b) The Applicant has advised that it will monitor multiple declined EFTPOS transactions, as required by its PGIP.

#### **SA's submissions**

7. SA submitted, in summary, as follows:
- (a) It has previously opposed the addition of cash-dispensing EFTPOS terminals on the basis that they can facilitate irresponsible gambling by making cash more readily available to patrons. It maintains this caution, the risks of which are captured in paragraph 15 of decision GC16/05.
- (b) However, having read decision GC16/05 in its entirety, it appreciates that additional EFTPOS terminals are less of a concern where the terminals are deployed in existing cashiering stations. It also appreciates that EFTPOS terminals are less risky than ATMs, as they require interaction with casino staff. Moreover, it appears that the additional EFTPOS terminals sought in this application will be deployed in VIP gaming rooms, which are subject to a greater level of scrutiny by staff.

- (c) Therefore, its principal concern with this application is not the additional EFTPOS terminals themselves, but whether the terminals are intended to facilitate additional locations where cash can be accessed by patrons (excluding additional locations that replace any current ones). Creating more opportunities for patrons to access cash entails a risk of harm.
- (d) If the Commission has given approval for SCML to construct an additional gaming room, (ie the Ultra Black room, although it understands this will involve the Platinum Room subsuming the existing VIP Black room, which will then be reconstructed on level 6), it is reasonable for this room to be permitted a cashiering station additional to the current number offered.
- (e) For these reasons, it does not support the addition of any cashiering stations further to this amount.

#### **MoH's submissions**

8. MoH submitted, in summary, as follows:

- (a) SCML has sought approval to add two cash-dispensing EFTPOS terminals to the Platinum Room and VIP Black/Ultra Black areas on its gaming floor, raising the total to 24.
- (b) In addition to the 22 cash-dispensing EFTPOS terminals, there are also 10 ATMs, 38 EFTPOS terminals (outside of Gambling Area), and two bank teller terminals at the BNZ branch on the ground floor. The question is, would adding two new cash dispensing EFTPOS terminals in the casino result in increased harm?
- (c) Research recommends the removal of EFTPOS and ATMs from gambling venues or implementing limits on withdrawals (per transaction and per customer limits), in order to prevent and minimise gambling harm. Having further opportunities to withdraw cash will likely allow for increased gambling participation.
- (d) That said, it is unclear if adding two more EFTPOS terminals where there are already 22 operating (in addition to 10 ATMs, 38 EFTPOS terminals (outside of Gambling Area), and two bank teller terminals), would have an impact on harm.
- (e) Regardless of what changes are made, it is the casino's responsibility to satisfy its various obligations, including those of a responsible host. Any approval should be contingent on SCML having good host responsibility policies and practices in place and ensure that they are being followed.

- (f) As there is limited evidence to determine the effectiveness of its HRP, it would be useful to have an independent evaluation/review of host responsibility effectiveness in practice. This should be standard for all casinos as a matter of course, even if they are not applying for changes to their licence conditions.

**PGF's submissions**

9. PGF submitted, in summary, as follows:
- (a) It opposes the application because mobile EFTPOS terminals will make cash more readily available at the casino, which is likely to increase gambling harm.
  - (b) Regulation 5 of the 2004 Regulations states that "The holder of class 4 venue licence or casino operator's licence must ensure that there are no automatic teller machines available in the gambling area of a venue in which it conducts gambling." This Regulation relates to purpose (b) of the Act, which states that the Act is to "authorise some gambling and prohibit the rest" and is referred to in paragraph 15 of decision GC16/05. In that decision, the Commission stated that, although Regulation 5 does not specifically refer to EFTPOS terminals, the spirit and intent of the Regulation would be compromised if cash access opportunities were enlarged.
  - (c) Further, condition 12 of SCML's operator's licence for the Auckland casino specifies that there be no more than 10 ATMs outside the Gambling Area. This condition is designed to limit access to cash outside the Gambling Area, as ready access to cash increases the risk of harm. In addition, condition 14 has required this current application to be made and allows the Commission to impose conditions on the approval of using mobile EFTPOS terminals.
  - (d) It recommends that, under Regulation 11(a)(ii), information should be made available to players about the characteristics of problem gambling, including the recognised signs of problem gambling and how to seek support for problem gambling, on current printed EFTPOS receipts. This could be done in a similar way that supermarket EFTPOS receipts display advertisements and discounts.
  - (e) If the Commission approves SCML's application, there should be a condition to include additional host responsibility measures around any use of the terminals.

**SCML's submissions in reply**

10. In reply, SCML submitted, in summary, as follows:

*The Secretary's submissions*

- (a) The Secretary notes that any additional EFTPOS terminals will be monitored for multiple declined transactions pursuant to the PGIP and on that basis, it has no regulatory concerns with the application. That is consistent with the position it has taken in this application.

*SA's submissions*

- (b) SA notes that its principal concern is not the additional EFTPOS terminals themselves, but whether the terminals are intended to facilitate additional locations where cash can be accessed by patrons (excluding additional locations that replace current ones).
- (c) From SA's comments, it is unclear whether it opposes this application. The new VIP Black/Ultra Black room on level 6 does replace (but also expand) an existing location on level 1 of the casino (VIP Black). The expansion includes an additional cashiering window to service the area known as Ultra Black. The existing VIP Black location on level 1 will retain its existing cashiering facilities and will become an extension to the current Platinum Room on level 3.
- (d) Pursuant to condition 12(i) of SKYCITY Auckland's venue licence, the licence holder is required to maintain at least one principal cashiering facility on each level of the gaming floor. Thus, the new gaming facility on level 6 and the ongoing use of the gaming facility on level 1 both require cashiering facilities, pursuant to the licence conditions.
- (e) SCML has traditionally deployed cash-dispensing EFTPOS facilities in each of the windows at its cashiering facilities for the convenience of customers. The current proposal seeks a continuation of that arrangement and is not designed to facilitate additional locations where cash can be accessed by patrons.

*MoH's submissions*

- (f) MoH's submission appears to advocate a variation to the licence conditions which would require all casinos to be subject to an independent review of their HRPs. That is a matter beyond the scope of the application. The modest increase to EFTPOS facilities that is being sought does not provide a sound basis for requiring an independent evaluation of host responsibility practices at the Auckland casino.

*PGF's submissions*

- (g) PGF submits that mobile EFTPOS terminals will make cash more readily available at the casino and that this increased access is likely to increase gambling harm. On that basis it opposes the application. To clarify, this application does not involve mobile EFTPOS terminals.
- (h) That issue aside, PGF states that, if the Commission approves the application, there should be an additional condition covering additional host responsibility measures around the use of the terminals. In this regard it suggests using EFTPOS receipts to include problem gambling related messages.
- (i) Enquiries indicate that a header or footer could be included on receipts, with a message limited to 20 letters/numbers. If the Commission sees merit in this proposal, it would be prepared to include a limited message which might, for example, including a gambling helpline number.

**Analysis**

11. SCML has applied to deploy two additional cash-dispensing EFTPOS terminals in the Gambling Area of the Auckland casino. If approved, the number of cash-dispensing EFTPOS terminals in the Gambling Area would increase from 22 to 24.
12. This application is the second of two applications being considered by the Commission at its February 2020 meeting, which seek a variation to the current cash access/payment approach in place at casinos in New Zealand (see decision GC02/20).
13. The Commission last considered the number of cash-dispensing EFTPOS terminals that could be deployed in the Gambling Area of the Auckland casino in 2005. At that time, the Commission considered the issue of cash access very carefully (see decisions GC07/05 and GC16/05), and formulated an overall approach to the deployment of ATMs, cash-dispensing EFTPOS terminals and mobile EFTPOS terminals within New Zealand's six casinos. Its approach was subsequently captured in licence conditions attached to the operators' licences for each casino (and conditions 12-17 of SCML's operator's licence for the Auckland casino). (See the Interim and Final Decisions on a proposal by the Gambling Commission to revoke the conditions attached to the venue licence held by SKYCITY Auckland Limited and the operator's licence held by SCML, and to specify new conditions in their place, dated 23 December 2005 and 27 March 2006 respectively.)

14. Decision GC16/05 approved the deployment of 22 cash-dispensing EFTPOS terminals in the Gambling Area of the Auckland casino. In considering the current application, the Commission noted that there is no magic in the number 22; it simply represents the number of cash-dispensing EFTPOS terminals that the Commission was prepared to approve for deployment in the Gambling Area in 2005. The Commission can either increase or decrease the number from time to time.
15. Paragraph 12 of decision GC16/05 articulates the issue confronting the Commission in the present case:

... in regulating cash access, the Commission seeks to strike a balance which enables the operator to meet the customer service expectations of its patrons, while discharging its obligations under the Act to promote responsible gambling, and protect potentially at-risk gambling patrons. In this regard, the Commission noted earlier submissions it received, in the context of decision GC07/05, that EFTPOS terminals were potentially less harmful than ATMs because of the requirement for interaction with casino staff when cash withdrawals were made.
16. SCML submitted that the increase in terminals is warranted because the Auckland casino footprint is larger than it was in 2005 and because it deploys considerably more gambling product than it did at that time.
17. The counter-argument to approving additional terminals relates to concerns about the possible harm that patrons could suffer if cash were to be available too readily within the Gambling Area. This matter was the subject of contentious consideration in 2005, with PGF submitting that there should be a total prohibition on dispensing cash from EFTPOS terminals in the Gambling Area of the Auckland casino and that a maximum of two ATMs should be permitted within the casino.
18. In contrast, the expressions of concern in relation to SCML's current proposal are much smaller in ambit; SA was more concerned with the number of cashiering facilities than the number of EFTPOS terminals; PGF was opposed to mobile EFTPOS terminals (when that is not what SCML applied for); MoH advocated for independent host responsibility oversight. The Secretary had no regulatory concerns at all.
19. On balance, the Commission is prepared to approve the deployment of the two proposed additional cash-dispensing EFTPOS terminals within the Gambling Area. It did not consider that concerns about harm minimisation or responsible gambling required otherwise.
20. In attempting to strike the balance between customer service and harm minimisation, the Commission noted that the gambling footprint of the Auckland casino has grown substantially since 2005, as has the number of gambling products that SCML now deploys (SCML now deploys 40 additional gaming tables, 230 additional EGMs and 240

additional FATGs). In the Commission's view, the deployment of two additional cash-dispensing EFTPOS terminals is proportionate with this growth.

21. Other factors that favoured granting the application were as follows:
- (a) all cash-dispensing EFTPOS machines in the Gambling Area (including the additional two) will be located within a cashiering facility, meaning that patrons wishing to access cash will need to interact with a human before being able to do so. This is safer than withdrawing cash from a "faceless" ATM as the cashiers can monitor patrons for indications of problem gambling;
  - (b) the additional terminals will be located in VIP areas, which are more heavily staffed than the MGF;
  - (c) contrary to the MoH submission, there are not two cashiering terminals at the BNZ bank onsite; the BNZ left the casino site many years ago. The addition of two new terminals would effectively replace the two BNZ cashiering terminals that existed in 2005.

22. The Commission did not agree that it was appropriate to add conditions requiring independent oversight of the HRPs, or harm minimisation messages on EFTPOS receipts. The Commission, which is independent of both casino operators and the Secretary, undertakes comprehensive reviews casino HRPs every three years. It considers the current HRPs to be of a very high standard internationally. More to the point however, it considers that reviews are best undertaken deliberately and comprehensively, in accordance with the Commission's work programme, and not piecemeal, in the course of licence condition applications.

23. The Commission received no information about the effectiveness of adding brief messages to EFTPOS receipts, which are generally neither kept nor read by consumers. Any such change, if there were sufficient supporting information, should be considered in the course of the next HRP review.

#### **Decision of the Commission**

24. The Commission approved, pursuant to condition 13 of SCML's operator's licence for the Auckland casino, the installation of two additional cash-dispensing EFTPOS terminals in the Gambling Area at the Auckland casino. The 24 terminals are to be located in the approved locations (as set out in paragraph 5(f) above). SCML may relocate these terminals between approved cashiering locations, as provided for in decision GC03/19.

**Right of appeal**

25. Pursuant to section 235 of the Act, a person affected by this decision may appeal that decision to the High Court. An appeal must be made within 15 working days of the date of notice of the Commission's decision, or any longer period that the High Court may allow.



Lisa Hansen  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

23 March 2020

