

IN THE MATTER of the Gambling Act 2003
AND on an application by **SKYCITY AUCKLAND LIMITED** for approval of signage, and to amend condition 6 of the venue licence for the Auckland casino

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
P J Stanley
L M Hansen
R D Bell
A K Foote

Date of Application: 2 February 2012

Date of Decision: 16 March 2012

Date of Notification
of Decision:  March 2012

**APPLICATION BY SKYCITY AUCKLAND LIMITED
FOR APPROVAL OF SIGNAGE, AND TO AMEND CONDITION 6 OF THE
VENUE LICENCE FOR THE AUCKLAND CASINO**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission:
 - (a) for retrospective approval of the existing signage affixed to the exterior of the Auckland casino; and
 - (b) to amend condition 6 of SCAL's venue licence, pursuant to section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to provide the Executive Director with the ability to approve uncontroversial signage for the exterior of the Auckland casino.
2. The Commission sought submissions on the application from the Secretary for Internal Affairs (the "**Secretary**") and the Problem Gambling Foundation ("**PGF**"), receiving submissions from both.

Relevant licence condition

3. The relevant licence condition, with proposed amendments in mark-up, is as follows:

SCAL's venue licence (Auckland)

6. The Licence Holder must obtain the approval of the Commission prior to:



- (a) construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms 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, 3, 5 and 6 of the casino venue, 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)~~. The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.

Submissions by SCAL

4. SCAL submitted, in summary, as follows:

- (a) Pursuant to condition 6(c) of its venue licence, it must obtain Commission approval prior to the addition or alteration of signage relating to the casino business on the exterior of the casino venue.
- (b) The term "relating to the casino business" has not been defined and historically it has interpreted the term as having specific application to the casino and the gambling opportunities available therein. Signage advertising food and beverage outlets located within the casino precinct and other non-gambling related signage has been affixed to the exterior of the casino without recourse to the Commission on the basis that it did not believe it was subject to the requirements of condition 6(c).
- (c) Currently it has signage as follows:
 - (i) 17 pole banner signs affixed to the exterior of the casino venue on Federal and Hobson Streets, which advertise food and beverage outlets inside and outside the venue. The signs are double sided with identical wording on either side. There are nine signs on Federal Street and eight on Hobson Street.
 - (ii) Signage affixed to the exterior of the venue on Federal Street denoting Rebo and Bellota restaurants.

- (iii) The Federal Street side of the venue has signage depicting the availability of car parking and the presence of the hotel and Convention Centre.
 - (iv) From time to time it uses an overhead banner across Federal Street, part of which is affixed to the casino venue. This signage is often used to celebrate particular events such as the Rugby World Cup and Christmas. It currently denotes the celebration of Chinese New Year. The Chinese characters depicted on the sign represent a general translation of the English wording shown on the sign.
 - (v) The Wellesley Street side of the casino venue is affixed with a sign denoting the hotels, Convention Centre and parking facilities, together with a further sign depicting the Theatre. A digital display is located directly under the Theatre sign and is used to record details of particularly productions staged at the Theatre from time to time.
 - (vi) The Hobson Street side of the casino venue has a wall painted sign advertising a sports bar known as the Nations Clubrooms. A second sign depicting the Theatre with the digital display located beneath the sign is also located on the side of the building.
 - (vii) The Victoria Street side of the casino venue has a sign depicting the hotel and temporary signage outside the main entrance in traditional Chinese reflecting Chinese New Year messages. There is no literal translation for these couplets but they convey the following meaning:
 - Left couplet: Blessings from heaven and earth to everyone in the house;
 - Right couplet: Wish you long life like heaven;
 - Top couplet: In the New Year everything will change.
- (d) It has not previously sought approval for those signs as it did not believe Commission approval was necessary. However Commission decision GC28/11 shows that the Commission has adopted a broader view of a "casino business" than that which SCML has previously applied. It is likely that the abovementioned signage requires Commission approval. The exception may be the overhead banner on Federal Street, which is generally used to celebrate public events, and the temporary signage at the main entrance which is themed to Chinese New Year. To the extent that any or all of the signage does require Commission approval, that approval is sought and it regrets any oversight in not lodging the application prior to affixing the signs.

- (e) Most of the signs depicting non-gambling related amenities are unlikely to be contentious. Furthermore there are likely to be occasions in future when it wants to affix temporary signage at relatively short notice which may be difficult to reconcile with the scheduled Commission meeting dates and associated deadlines for submissions. For this reason it wants to amend condition 6 to enable the Commission's Executive Director to either approve uncontroversial signage changes or, in the event he considers that the proposed signage might have wider implications, to refer the proposal to the full Commission for determination.
- (f) This would provide it with the flexibility to implement changes involving non-contentious signage within a matter of days whilst ensuring that the Commission could still determine the suitability of any particular changes on referral by the Executive Director.
- (g) In the event the Commission is minded to approve this amendment, it may want to consider proposing similar amendments to the conditions of other casino venues.

The Secretary's submissions

5. The Secretary submitted, in summary, as follows:

- (a) He does not have any regulatory concerns with SCAL's current signs.
- (b) He supports the proposed amendment to allow the Executive Director to approve uncontroversial signage, but his support is limited to approval for signage that does not include gambling related indicia.
- (c) Referral to the full Commission for any other signage with wider implications should remain.

PGF's submissions

6. PGF submitted, in summary, as follows:

- (a) It has no objection to the retrospective approval of the English signage, but is opposed to the Commission approving the signage that is in Chinese. It is concerned that subtleties in the use, content or context of other languages, particularly Chinese, require a thorough and full examination to ensure that they are not inappropriately persuading non-English speakers to gamble at the casino.
- (b) It is also concerned at the use of languages other than New Zealand's official languages, English and Maori, in SCAL's signage.



- (c) SCAL does not celebrate other ethnic groups' festivals in their signage or language used, not even the Matariki Festival.
- (d) Concepts that in English may appear positive or neutral such as "good fortune" may conjure up images of gambling in other languages, so proposed foreign language signage needs thorough investigation before they are apparent.
- (e) It has no problem with adopting a simpler approval process for English or Maori language signage that refers only to food, beverages or restaurants. It does want full Commission approval for proposed signs or sign changes make any reference to gambling or gambling-related activities. Condition 6 could be amended to provide as follows:

The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue (paragraph (c) above) if he/she is satisfied the proposed changes:

- (a) do not refer to gambling-related activities directly or indirectly; and
- (b) will have no potentially adverse effects; and
- (c) use no other language than English or Maori.

~~If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.~~

SCAL's submissions in reply

7. In reply SCAL submitted, in summary, as follows:
 - (a) PGF is opposed to the approval of the Chinese signage, arguing that any such signage should be the subject of a full examination by the Commission. Its existing Chinese signs are before the full Commission in this instance.
 - (b) While the Chinese signage in question has now been removed, it has been used on more than one occasion in the past to mark Chinese New Year and it is likely to be used again for this purpose.
 - (c) The signage was assessed for suitability in terms of SKYCITY's host responsibility obligations before being affixed to the casino. In terms of that assessment, it was satisfied that the signage did not encourage or reinforce gambling behaviour that may be associated with harm, or present gambling in an unrealistic, misleading or deceptive way. The signage is broad-based and designed to celebrate a significant event for the Chinese community and, in so doing, promote the range of entertainment options at the casino.
 - (d) The application to amend licence condition 6 is designed to facilitate an early approval of non-contentious signage. The proposed amendment is worded in a manner which would allow the Executive Director to determine whether a

particular sign might have adverse effects. PGF is proposing a more prescriptive condition which would require any signage which relates to gambling related activities, or which is written in a foreign language to be referred to the full Commission for consideration. It would also seem pointless to require the Commission to consider the suitability of foreign language signage depicting the name of a restaurant. The Spanish restaurant 'Bellota' and its associated signage is a case in point.

- (e) It would not object if the Commission chose to reword the licence condition in a manner which addresses PGF's concerns. Its only objective is to facilitate the approval of non-contentious signage relating to the wider business which is unlikely to be of any regulatory interest.
- (f) The Secretary supports the proposed amendment to the licence condition subject to the qualification that any signage depicting gambling related indicia should be referred to the full Commission for consideration. Its concern with this qualification is how gambling related indicia might be interpreted. Most food and beverage signage carries the SKYCITY logo. Similarly, signage may be adorned with the R20 logo because the area in question is designed as a gambling area, even though it is not in fact used for casino gambling purposes. The Nations Clubrooms is a case in point.

Analysis

8. Condition 6 of SCAL's venue licence provides that the Commission's approval is required prior to SCAL altering or adding signage relating to casino business on the exterior of the casino venue.
9. SCAL sought approval of its existing exterior signage following the Commission's elucidation of the term "casino business" in decision GC28/11. In that decision, the Commission held that "casino business" can relate to a wide array of casino related activities, not simply gambling related activities, as SCAL has previously understood the term to mean.
10. The Commission was of the view that the specific signs before it raised no issues of regulatory concern. PGF expressed concern over those signs containing Chinese characters, with its submission being that foreign language signs may have nuances which inappropriately promote gambling at the casino but did not provide the Commission with any information which suggested that the particular signs did so.
11. The Commission's concern is to prevent and minimise the harm caused by gambling, including problem gambling, and to facilitate responsible gambling. The Commission did

not consider there to be anything in the current Chinese signs which conflicted with these requirements. SCAL provided translations which showed the signs to be broad-based and not gambling specific. PGF made no submissions to the contrary. They are no different to many of the signs erected across Auckland City during Chinese New Year.

12. However the Commission considers that PGF has made a good point concerning what is necessary to assess any future applications of this nature. SCAL will be required to provide translations of any signs written in languages other than English. This will allow the Executive Director and, if necessary, the Commission to give proper consideration to the sorts of concerns raised by PGF in its submission in all future applications.

Amendment to condition 6

13. SCAL has sought to amend condition 6 to allow uncontroversial signs to be approved by the Executive Director without the need for them to go before the Commission. The Commission was of the view that the proposal was sensible as it would provide a mechanism for uncontroversial signs to be approved quickly and without the need to burden the Commission with straightforward and non-contentious applications.
14. PGF and the Secretary supported a delegated authorisation mechanism which was in more restrictive language than that proposed by SCAL, with the Secretary suggesting that any signage with gambling related indicia should be referred to the Commission, and PGF suggesting, additionally, that any signs written in languages other than New Zealand's official languages should be referred to the Commission and providing a suggested alternative wording which would limit the scope of the Executive Director's satisfaction to three specific matters, albeit that one of them was the same as that proposed by SCAL.
15. The Commission was of the view that SCAL's proposed wording was appropriate. It allows the Executive Director to consider a sign and form a view, after making appropriate inquiry, on whether it is potentially problematic in any way. Unless he is satisfied that it is not, the sign must be referred to the Commission for consideration. Otherwise, it will be approved.
16. The Executive Director currently exercises similar discretions in relation to approval of floor plans, and construction and design changes, and those arrangements work well. The Commission does not consider that it is necessary or desirable to add to the scope of the Executive Director's decision beyond what has been proposed in the application.



Decision

17. The Commission:

- (a) approved (retrospectively), pursuant to condition 6 of SCAL's venue licence, the signage currently affixed to the Auckland casino; and
- (b) amended condition 6 of SCAL's venue licence, pursuant to section 139(1)(d) of the Gambling Act 2003. Condition 6 now provides as follows:

SCAL's venue licence (Auckland)

- 6. The Licence Holder must obtain the approval of the Commission prior to:
 - (a) construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms 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, 3, 5 and 6 of the casino venue, including the Gambling Area (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied the proposed changes must be referred to the Commission for a decision on approval.

Right of appeal

18. Pursuant to section 235 of the Act, a person affected by the Commission's decision to amend condition 6 of SCAL's venue licence 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.

Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

22 March 2012