

IN THE MATTER of the Gambling Act 2003

AND

on an application by **SKYCITY
AUCKLAND LIMITED** for a series
of approvals relating to the re-
designation of the Gambling Area
at the Auckland casino

BEFORE THE GAMBLING COMMISSION

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

Date of Application: 26 February 2010

Date of Decision: 16 April 2010

Date of Notification
of Decision: 21 April 2010

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED FOR
A SERIES OF APPROVALS RELATING TO THE RE-DESIGNATION OF
THE GAMBLING AREA AT THE AUCKLAND CASINO**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**"), applied, under section 139(1)(d) of the Gambling Act 2003 (the "**Act**") to:
 - (a) amend condition 9 of SCAL's venue licence, to redesignate the Gambling Area of the Auckland casino (to remove the ground floor gambling area);
 - (b) amend conditions 5, 6 and 7 of SCAL's venue licence, to restore their wording to their form before decision GC25/09.
2. Submissions were sought on SCAL's proposal from the Secretary for Internal Affairs (the "**Secretary**"), Ministry of Health, Problem Gambling Foundation ("**PGF**"), Salvation Army and Gambling Helpline ("**GH**"). Submissions were received from GH, the Secretary and PGF.
3. The relevant sections of the Act are as follows:
 139. **Conditions of casino licence**
 - (1) The Gambling Commission may specify the conditions of the 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).

140 Procedure for specifying, varying, or revoking casino licence conditions

- (1) The Gambling Commission must notify the holder of the relevant casino licence, the Secretary, and any other person who it considers is affected by a proposal to specify, vary, or revoke the conditions of a casino licence.
- (2) Notification under subsection (1) must include—
 - (a) the reason for the proposal; and
 - (b) the procedure to be followed before the Gambling Commission makes a decision relating to the proposal.
- (3) The holder of the casino licence, the Secretary, and any other person affected may make written submissions to the Gambling Commission concerning the proposal within 20 working days after the date of the notice under subsection (1) or within any longer period that the Gambling Commission allows.
- (4) The Gambling Commission must consider any submissions made under subsection (3) and may, if it considers it appropriate, seek comment from the casino licence holder on the submissions received from the Secretary or other persons affected.
- (5) The Gambling Commission must notify the holder of the casino licence, the Secretary, and other persons affected of—
 - (a) its decision concerning the proposal and the reasons for the decision; and
 - (b) the right to appeal the decision and the process for an appeal.

4. The relevant licence conditions are as follows:

SCAL's venue licence

- 5. The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of the Ground Floor, Level 2 and Level 3 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes alterations to the Ground Floor, Level 2 or Level 3 of the Casino Venue requiring building consent from a territorial authority.
- 6. The Licence Holder must obtain the approval of the Commission prior to:
 - (a) construction or design changes to the Ground Floor, Level 2 or Level 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 the Ground Floor, Level 2 or Level 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 the Ground Floor, Level 2 or Level 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 shall comprise an area specified in plans 'A1', 'B' and 'C' dated 25 November 2009.

12. (i) The Licence Holder shall maintain at least one principal cashiering facility on levels 2 and 3 of the gaming area 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.

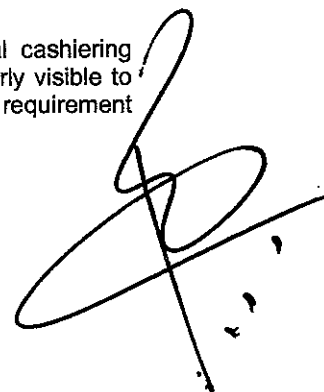
- (ii) The Licence Holder may provide accommodation for chip bank cashiers in the principal cashiering facility which shall be physically separate from general cashiers unless the Commission approves otherwise.

- (iii) Chips and plaques held in reserve and not used for active gaming shall be housed in a locked compartment within the chip bank.

SKYCITY Casino Management Limited's ("SCML") operator's licence (Auckland)

21. (i) The Licence Holder shall maintain at least one principal cashiering facility on levels 2 and 3 of the gaming area 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 surveillance department.
- (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.

Submissions by SCAL

8. SCAL stated as follows:

- (a) By decision GC25/09, the Commission approved its application to redesignate the Gambling Area to include a gambling area on the ground floor of the Auckland casino. The Commission also amended conditions 5, 6, 7 and 12 of SCAL's venue licence and condition 21 of SCML's operator's licence for the Auckland casino.
- (b) It has decided not to develop a gambling area on the ground floor of the casino; rather it is likely that the area will be developed for food and beverage purposes.
- (c) There is therefore no longer a need for the ground floor to be designated as part of the Gambling Area, and the approvals granted in decision GC25/09 can be reversed.
- (d) It did not apply to restore conditions 12 and 21 as their new form has no operational implications (although if the Commission is minded to restore these to their previous form, it has no objections).

GH's submissions

9. GH supported SCAL's proposal, including the development of the new food and beverage facility.

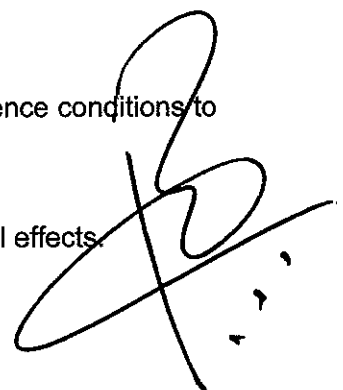
The Secretary's submissions

10. The Secretary had no regulatory concerns with SCAL's proposal.

PGF's submissions

11. PGF submitted that:

- (a) It supported SCAL's proposal to restore the ground floor and licence conditions to their state prior to decision GC25/09.
- (b) Decision GC25/09 was wrong in law and would have had harmful effects.



- (c) The Commission should fully restore the licence conditions to their previous state, including conditions 12 and 21, because although the conditions in their present form have no operational implications, their restoration will restore the good policy of maintaining a cashiering facility on each floor that gambling facilities operate on.
- (d) The use of the proposed area for food and beverage would have benefits to all casino users.

Analysis

12. SKYCITY applied to “reverse” the approvals it obtained in decision GC25/09 as it no longer wants to develop a gambling area on the ground floor of the Auckland casino. The application raised no issues of regulatory concern for the Commission.
13. SCAL was ambivalent about restoring conditions 12 and 21 because amending these conditions does not affect the operation of the casino either way. The Commission considered it prudent to restore these licence conditions to their previous form to ensure that any future application to designate the ground floor as gambling area traverses all relevant matters at the same time, including whether the ground floor should have its own cashiering facility.

Decision of the Commission

14. The Commission decided to:
- (a) amend condition 9 of SCAL’s venue licence (to remove the ground floor as part of the designated Gambling Area at the Auckland casino) under section 139(1)(d) of the Act. Licence condition 9 now provides as follows:

9. The Gambling Area within the casino venue shall comprise the area specified in plans “A” and “B” dated 21 April 2010.

The Gambling Area is depicted on the **attached** plans;

- (b) amend conditions 5, 6, 7 and 12 of SCAL’s venue licence and condition 21 of SCML’s operator’s licence (to restore them to their form pre-decision GC25/09) under section 139(1)(d) of the Act. The licence conditions now provide as follows:

SCAL’s venue licence

- 5 The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Levels 2 and 3 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes

alterations to the Levels 2 or 3 of the Casino Venue requiring building consent from a territorial authority.

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.

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.

SCML's operator's licence

- 21.(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 surveillance department.
- (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.

Right of Appeal

15. 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



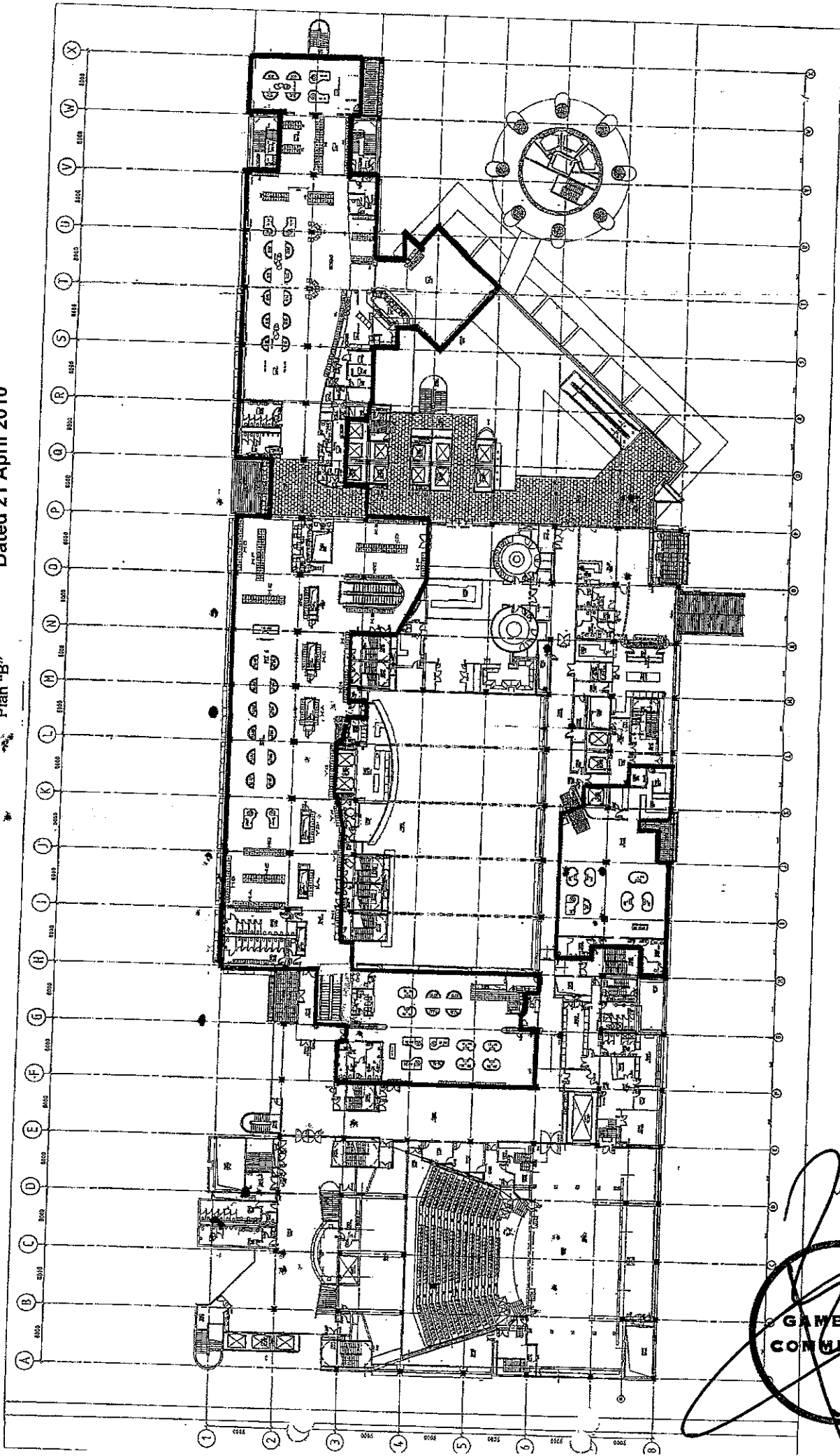
 Peter Chin
 Chief Gambling Commissioner

for and on behalf of the
 Gambling Commission

21 April 2010

Dated 21 April 2010

Plan "B"



| NO. | REV. | DATE | BY | CHK. | APP. |
|-----|------|----------|-----|------|------|
| 1 | SKM | 10/04/10 | SKM | SKM | |
| 2 | SKM | 10/04/10 | SKM | SKM | |
| 3 | SKM | 10/04/10 | SKM | SKM | |

SKY CITY - PODIUM
LEVEL 3 - FLOOR PLAN
PROPOSED LAYOUT PLAN

CLIENT AND PROJECT
Sky City Entertainment Group
Minor Works

Architects
Craig Moller Architects
Telephone 04 9 877 0880
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DRAWING TITLE
SKY CITY - PODIUM
LEVEL 3 - FLOOR PLAN
PROPOSED LAYOUT PLAN

DATE: 21/04/10
DRAWN BY: SKM
CHECKED BY: SKM
APPROVED BY: SKM

