

IN THE MATTER of the Gambling Act 2003

AND of an application by **SKYCITY HAMILTON LIMITED** to vary the designated Gambling Area, to vary licence conditions, and for approval of construction and design changes to the Hamilton casino

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
R D Bell
W N Harvey

Date of Application: 26 April 2018

Date of Decision: 8 June 2018

Date of Notification
of Decision:  June 2018

**DECISION ON AN
APPLICATION BY SKYCITY HAMILTON LIMITED
TO VARY THE DESIGNATED GAMBLING AREA, TO VARY LICENCE CONDITIONS,
AND FOR APPROVAL OF CONSTRUCTION AND DESIGN CHANGES
TO THE HAMILTON CASINO**

Application

1. SKYCITY Hamilton Limited ("SHL") applied to the Commission:
 - (a) to vary the designated Gambling Area on the main gaming floor (the "MGF") of the casino, pursuant to conditions 9 and 9A of SHL's venue licence and section 139(1)(d) of the Gambling Act 2003 (the "Act");
 - (b) to vary licence conditions 9 and 9A of SHL's venue licence pursuant to section 139(1)(d) of the Act; and
 - (c) for approval of construction and design changes to the MGF, pursuant to conditions 6 and 7 of SHL's venue licence.



Licence conditions

2. The current licence conditions, with SHL's proposed changes in mark-up, are as follows:

SHL venue licence

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Levels B1 and 1 of the Casino Venue, including the Gambling Area;
 - (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 or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels B1 and 1 of the Casino Venue (6(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 or on or around the building within which it is located (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.

7. The Licence Holder must notify the Executive Director of any proposed changes to the construction or design of Levels B1 and 1 of the Casino Venue. 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 current standard Gambling Area for the Casino Venue is delineated in the plan attached as Schedule 1 to these conditions. An additional ~~The alternative~~ Gambling Area for level B1 of the casino is delineated in the plan attached as Schedule 2 and will form part of the Gambling Area only after being activated as provided in condition 9A. ~~A second alternative Gambling Area is delineated in the plan attached as Schedule 3.~~

- 9A. ~~The additional A change of Gambling Area depicted in the plan attached as Schedule 2 will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days notice in writing of its intention to adopt the additional one of the approved Gambling Areas referred to in condition 9 and shown in Schedules 1, 2 and 3.~~

Relevant sections of the Act

3. The relevant section of the Act are as follows:

Gambling Act 2003

139 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).

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.

Submissions by SHL

4. SHL submitted, in summary, as follows:

- (a) It wants to make changes to the Hamilton casino to enable a small number of gaming machines (around 10 to 12) to be deployed on an outdoor/open area. This requires an extension to the MGF and some construction and design changes. The open area is currently used by people who wish to smoke.
- (b) It seeks approval for construction and design changes to remove a set of doors, which forms part of a wind lobby leading to the open area, and to install a sliding door in its place, albeit in a slightly revised location.
- (c) The repositioning of the doors will enable better utilisation of the space created for the intended deployment of gambling product.
- (d) It also wants to level and tile part of this open area for the comfort of customers, and to install electrical connections for the installation of gaming machines.
- (e) The proposed construction and design changes will have no adverse impact on the matters set out in condition 7 of its venue licence.
- (f) In conjunction with the construction and design changes, it wants to redesignate the area in question as gambling area.
- (g) Open areas have proved to be popular as Gambling Areas with some customers at SKYCITY Auckland, so it wants to deploy 10 to 12 gaming machines in this open area at the Hamilton casino. In order to do so, the Commission must designate it as a Gambling Area.
- (h) It will ensure that gambling activity is not visible from outside the casino venue.
- (i) It also wants to remove a redundant alternative Gambling Area Schedule, and renumber its Gambling Area Schedules. Pursuant to condition 9 of its venue licence, the standard Gambling Area is delineated in the plan marked as Schedule 1, the alternative Gambling Area is delineated in the plan attached as Schedule 2 and a second alternative Gambling Area is delineated in the plan marked as Schedule 3. It has not relied on the current Schedule 1 for some time and there is no intention to do so. It therefore wants to discard Schedule 1 and to renumber Schedules 2 and 3 as 1 and 2 respectively, with licence conditions 9 and 9A amended accordingly.
- (j) The new Schedules 1 and 2 will include the open area.



Submissions by the Secretary

5. The Secretary had no regulatory concerns with this proposal.

Analysis

6. SHL has applied to redesignate the casino's Gambling Area to create an additional outdoor area where patrons can smoke while playing gaming machines.
7. In previous decisions, the Commission has considered whether it has the power to redefine a casino's Gambling Area, concluding that it can do so provided that the area in question does not extend beyond the casino venue, as defined in the casino venue licence, and the licence conditions defining the amended area are consistent with section 139(2) of the Act.
8. SHL's venue licence defines the casino venue, where relevant, as "that part of the property situated at 346 Victoria Street, Hamilton, being more fully described in the First and Second Schedules to this licence." The First Schedule sets out the legal description for the premises, while the Second Schedule depicts the premises pictorially with plans.
9. The Commission was satisfied that the proposed new Gambling Area is within the defined casino venue.
10. Removing the redundant Schedule also raised no issues of regulatory concern, with the subsequent redrafting of conditions 9 and 9A being consistent with section 139(2) of the Act.
11. Pursuant to condition 6 of SHL's venue licence, SHL must obtain the approval of the Commission prior to construction and design changes to Levels B1 and 1 (MGF) of the casino venue.
12. The proposed construction and design changes are relatively minor in nature and the Commission was satisfied that they would have no adverse impact on any of the matters set out in condition 7 of SHL's venue licence.

Decision

13. Pursuant to section 139 of the Act and condition 9 of SHL's venue licence, the Commission redesignated the Gambling Area in the manner proposed. Schedules 1 and 2 to the venue licence are attached to this decision.
14. Pursuant to section 139(1)(d) of the Act, the Commission varied conditions 9 and 9A of SHL's venue licence. Conditions 9 and 9A now read as follows:



9. The current standard Gambling Area for the Casino Venue is delineated in the plan attached as Schedule 1 to these conditions. An additional Gambling Area for level B1 of the casino is delineated in the plan attached as Schedule 2 and will form part of the Gambling Area only after being activated as provided in condition 9A.
- 9A. The additional Gambling Area depicted in the plan attached as Schedule 2 will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days notice in writing of its intention to adopt the additional Gambling Area.
15. Pursuant to conditions 6 and 7 of SHL's venue licence, the Commission approved the proposed construction and design changes to the MGF at the Hamilton casino.

Right of appeal

16. 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.



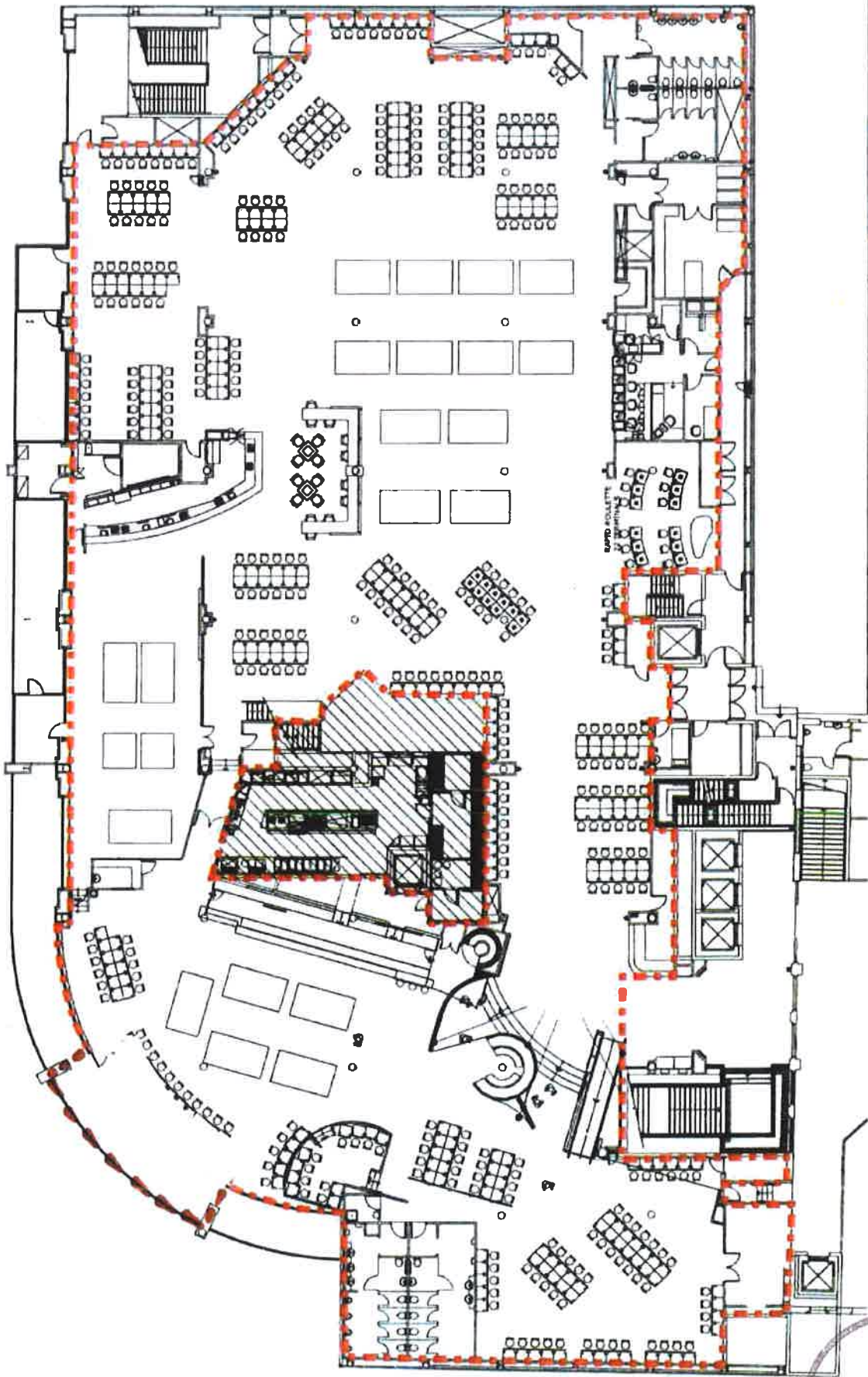
Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

18th June 2018



Schedule 1



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seata
ARCHITECTS

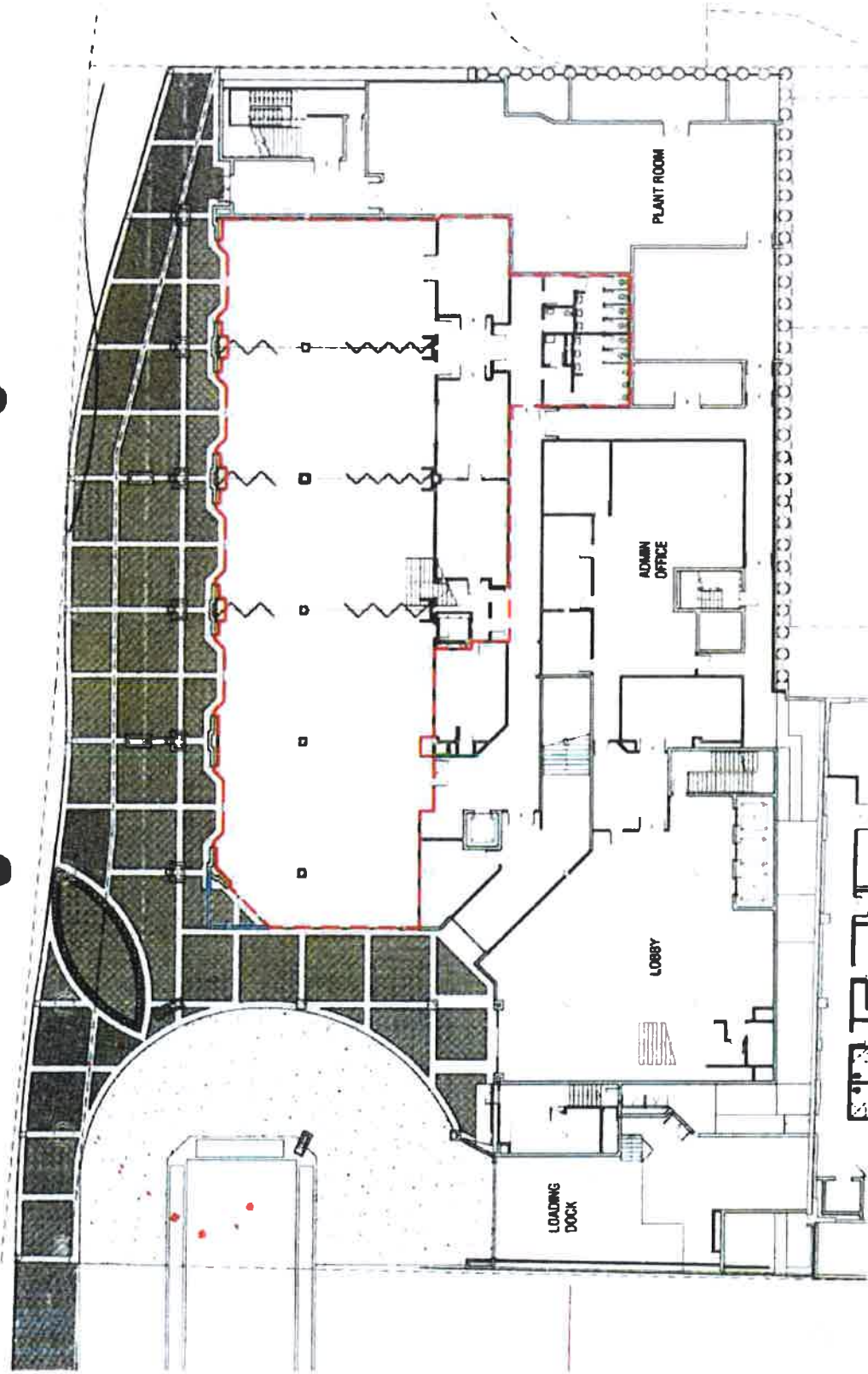
SKYCITY
HAMILTON

SKYCITY GAMING
Amended Gaming Floor Plan v.07

Profile 2014



Schedule 2



PROPOSED LOWER GROUND FLOOR "RED LINE" AREA OPTION A

SKYCITY HAMILTON
210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000

