

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

**AND** on an application by **SKYCITY AUCKLAND LIMITED** to redesignate the Gambling Area on level 3 of the Auckland Casino

**BEFORE THE GAMBLING COMMISSION**

Members: L M Hansen (Chief Gambling Commissioner)  
S C L Pearson  
S Hughes KC  
W A Acton  
S T Shaw

Date of Application: 29 July 2022

Date of Decision: 9 September 2022

Date of Notification  
of Decision: 15 September 2022

**DECISION ON AN  
APPLICATION BY SKYCITY AUCKLAND LIMITED TO REDESIGNATE  
THE GAMBLING AREA ON LEVEL 3 OF THE AUCKLAND CASINO**

**Application**

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission, pursuant to conditions 9 and 9A of its venue licence and section 139(1)(d) of the Gambling Act 2003 (the "**Act**") to redesignate the Gambling Area on level 3 of the Auckland Casino.

**Licence conditions**

2. The licence conditions are as follows:

**SCAL's venue licence**

9. The current standard Gambling Area for the casino venue is delineated in the plans attached as Schedule 1 to these conditions. Alternative Gambling Areas for levels 2 and 3 of the casino, and level 7 of the Grand Hotel, are delineated in the plans attached as Schedule 2 and will form part of the Gambling Area only after being activated as provided for in condition 9A.
- 9A. Any of the alternative Gambling Areas depicted in the plans attached as Schedule 2 will take effect subject to the following:
  - (a) the Licence Holder providing the Commission and the Inspectorate with a minimum of two working days' notice in writing of its intention to use either or both of the alternative Gambling Areas; and

- (b) the Licence Holder specifying in the notice, the date and time at which either or both of the alternative Gambling Areas will take effect and the date and time they will terminate. At the end of the notified period the Gambling Area will revert to the area delineated in Schedule 1.

### Relevant section of the Act

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

**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 purpose 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).

### Submissions by SCAL

4. SCAL submitted, in summary, as follows:

- (a) Pursuant to condition 9, the standard Gambling Area at the Auckland Casino is delineated in the plans attached as Schedule 1 to the venue licence. Alternative Gambling Areas are delineated in the plans attached as Schedule 2. The alternative plans form part of the Gambling Area only after being activated in the manner prescribed by condition 9A.
- (b) It wants to relocate a room on Level 3; from the Casino's standard Gambling Area to its alternative Gambling Area. The room is identified in the plans attached to its application. This redesignation will allow the room to be used as a back-of-house staff area and office. It will also be used as a training room when it is not being used for gambling purposes.
- (c) Its proposal, if approved, will result in a temporary reduction in the current standard Gambling Area.
- (d) The room has previously been used as a VIP gambling room, but not since the onset of the COVID pandemic in 2020. While its business recovers from the effects of the pandemic, it wants to use the room for non-gambling activities, including training.
- (e) Current licence conditions do not allow for dedicated training tables to be installed in the Gambling Area, so it wants to redesignate the room from standard to alternative, in order to facilitate its use for training purposes.

- (f) It wants to vary conditions 9 and 9A of its casino venue licence pursuant to section 139 of the Act. Its proposal complies with the section 139 criteria, so will not increase opportunities for casino gambling. Its proposal will also not have an adverse impact on its obligations to restrict access to the Gambling Area.

### **Submissions by the Secretary**

5. The Secretary submitted that he had no regulatory concerns with the proposal.

### **Analysis**

6. SCAL has applied to redesignate the gambling status of a room on Level 3 of the Auckland Casino. The room currently forms part of the Casino's standard Gambling Area but SCAL wants it to become part of the alternative Gambling Area so that it can be used for non-gambling, as well as gambling purposes.
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 amended licence conditions are consistent with section 139(2) of the Act. The venue licence for the Auckland casino defines the casino venue, where relevant, as "All the land and buildings bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West ...". The variation proposed is clearly within the boundary of the casino venue.
8. The room in question has previously been approved by the Commission as forming part of the Casino's standard Gambling Area. SCAL's proposal, which allows for the intermittent removal of that designation, is unproblematic and raised no issues of regulatory concern for the Commission or the Secretary.
9. The licence conditions, which will not be amended as a result of the application, will remain consistent with section 139(2) of the Act.

### **Decision**

10. The Commission redesignated the Gambling Area on level 3 of the Auckland casino in the manner proposed, pursuant to conditions 9 and 9A of SCAL's venue licence, and section 139 of the Act.

The Level 3 plans depicting the redesignated Gambling Areas for Schedules 1 and 2 attached to SCAL's venue licence are **attached**.

**Right of appeal**

11. 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.



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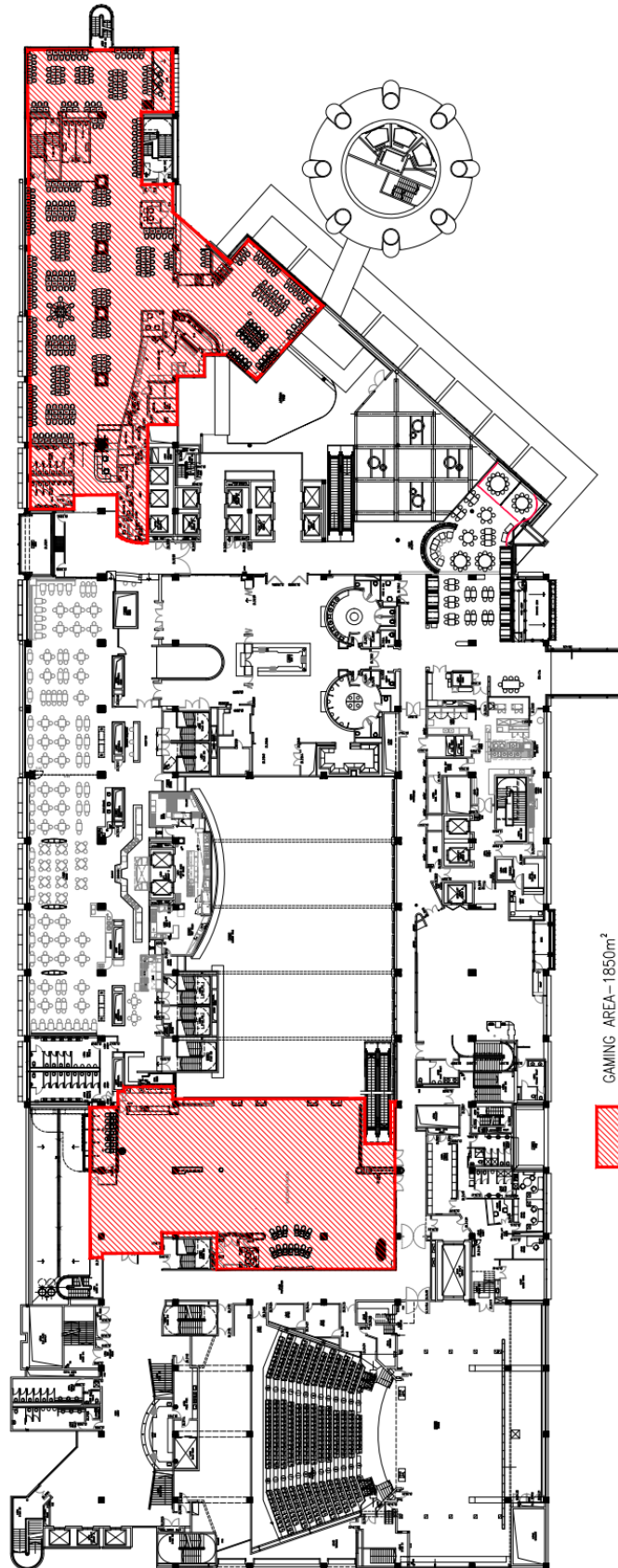
**Lisa Hansen**  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

15 September 2022



### SCHEDULE 1



### SCHEDULE 2

