

IN THE MATTER of the Gambling Act 2003
AND of an application by **SKYCITY
 AUCKLAND LIMITED** for approval
 of construction and design changes
 to the Auckland casino

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
 L M Hansen
 R D Bell
 D C Matahaere-Atariki
 W N Harvey

Date of Application: 2 July 2018

Date of Decision: 3 August 2018

**Date of Notification
 of Decision:** 10 August 2018

**DECISION ON AN
 APPLICATION BY SKYCITY AUCKLAND LIMITED FOR APPROVAL
 OF CONSTRUCTION AND DESIGN CHANGES TO THE AUCKLAND CASINO**

Application

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission for approval of construction and design changes to a VIP Salon on level 5 of the Auckland casino, pursuant to conditions 6 and 7 of SCAL's venue licence.
2. SCAL initially requested that the application be approved by the Executive Director alone, pursuant to his delegated powers under conditions 6 and 7, but the Executive Director decided that the application should be referred to the Commission for decision. SCAL was so informed and invited to supplement its application if it wished, which it did.

Licence conditions

3. The current licence conditions are 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 1, 2, 3, 5 and 6 of the Original Casino Site, including the Gambling Area but excluding the Sky Tower, 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) construction and design changes to level 7 of the Grand Hotel on the NZICCA Additional Site, including the Gambling Area but excluding 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).
- (c) the construction or relocation outside the Gambling Area and within the Original Casino Site or the NZICCA Additional Site of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
- (d) the addition or alteration of signage relating to the casino business on any building, road or structure within the Original Casino Site or the NZICCA Additional Site, including, walkways between any of the Original Casino Site and the NZICCA Additional Site.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 1, 2, 3, 5 and 6 of the Original Casino Site, and Level 7 of the Grand Hotel on the NZICCA Additional Site, including the Gambling Area (paragraphs (a) and (b) above) is set out in condition 7. The Commission will determine any application for approval under 6(c). The Executive Director may approve the addition or alteration of signage relating to the casino business on any building, road or structure within the Original Casino Site or the NZICCA Additional Site (paragraph (d) above) if satisfied that the proposed changes will have no potentially adverse effects. The proposed changes must otherwise 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 1, 2, 3, 5 and 6 of the Original Casino Site, and Level 7 of the Grand Hotel on the NZICCA Additional Site, including the Gambling Area, but excluding Sky Tower, SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms, 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 satisfied that there are no adverse impacts in relation to the matters specified in (a)-(e) above. The Executive Director must otherwise refer the proposal to the Commission for determination.

Submissions by SCAL

4. SCAL submitted, in summary, as follows:

- (a) Salon 81 is currently used as an overflow facility for the "EIGHT" room on level 5 of the casino. It is also used for private groups. It wants to install an internal wall in Salon 81 which will house a large sliding door, enabling the Salon to be divided into two smaller rooms when required. The existing footprint of the room will otherwise remain unchanged.
- (b) The intention of the partition wall is not to create two permanent rooms, but to provide flexibility to cater for smaller private groups, when a more intimate space is required. The overall area of Salon 81 will not increase.
- (c) Salon 81 is a VIP table games area, with higher levels of staff supervision than other parts of the casino. Smaller salon style rooms allow staff to monitor customers more closely.
- (d) Modifications will be made to, and additional cameras installed in, Salon 81 to ensure appropriate surveillance coverage of any parts of the room used for gambling, when the partition wall is in use.
- (e) Adjustments to the positioning of existing cameras will be made as necessary to ensure that the CCTV layout and coverage continues to satisfy the requirements of the Surveillance Standard.
- (f) Subject to the Commission's approval of the proposed construction and design changes, floor plans reflecting the updated table layout will be submitted for consideration at a later date.
- (g) New game mixes will be required in order to facilitate the change in floor plan. These too will be submitted for consideration by the Commission.
- (h) The proposed construction and design changes do not create any potential for an increase in harm or opportunity. The games will be operated within the parameters of existing approved game mixes and floor plans at all times. There will be no increase in overall table numbers, player spaces or opportunities for casino gambling.
- (i) The changes will have no adverse effect on the matters set out in condition 7, nor will they impact the Licence Holder's obligation to ensure gambling activity is not visible from outside the casino venue.

Submissions by the Secretary

5. The Secretary submitted that it has no regulatory concerns with SCAL's proposal.

Analysis

6. SCAL has applied for approval to install an internal wall in Salon 81 on level 5 of the Auckland casino. The wall will house a sliding door, which can be utilised to split the room into two separate and smaller gambling salons.
7. SCAL initially requested that the application be considered by the Executive Director pursuant to his delegated authority, but he declined to do so because the proposal would create an additional gaming salon and information provided by SCML in relation to security and surveillance of the rooms, following the installation of the sliding door, was insufficient. The Executive Director formed the view that the application should be considered by the Commission.
8. SCAL supplemented its application prior to consideration by the Commission. It provided additional details on how it will address the security and surveillance requirements, if the internal wall were installed. SCAL submitted that it would meet the requirements of the Surveillance Standard, and the Secretary was satisfied with SCAL's proposal.
9. The limited nature of the application means that it raises no issue of regulatory concern for the Commission. The Secretary has indicated satisfaction that the construction and design changes, for which approval is sought, will have no adverse effect on compliance with the Surveillance standard.
10. The proposed construction changes create no additional gambling opportunities and would have no impact on any of the matters set out in condition 7 (namely the integrity and fairness of games; the effectiveness of security and surveillance; harm prevention, harm minimisation and responsible gambling; potential access to the Gambling Area by persons under 20 years of age; and compliance by any person with the Act, including section 11). That is because a construction and design approval has no effect on the authorisation of gambling activity in the affected space. Any changes to the deployment of tables must be separately approved by means of a new approved floor plan and, in this case, an amendment to approved game mixes.
11. It should be noted that there is currently no approved floor plan which provides for a newly constructed partition to be closed while gambling took place in Salon 81. Use of the partition while gambling occurs in Salon 81 would require a new approved floor plan. In the result, the approval allows the partition to be built but not utilised without a subsequent approval. It is the temporary sliding nature of the partition wall which allows the change to

be separately approved, without contemporaneous approval of new floor plans, which would usually be required if an existing gambling area were to be permanently divided into two separate areas.

12. For future guidance, the Commission suggests that applications for related approvals of this type be made at the same time so that the Commission can assess properly the totality of what is intended. If a casino operator intends to make an operational change which will involve approvals for construction and design changes, new floor plans and new game mixes, it is highly desirable that all related matters requiring approval be considered (and, if thought appropriate, approved) at the same time.
13. The practice of bringing a series of separate but related applications has required the Commission to record previously, as it does again on this occasion, that the granting of this application carries no expectation of future related approvals. As a result, the applicant bears the risk of obtaining an approval which is ultimately of no use unless related approvals, not currently sought, are later granted.
14. The Commission doubts whether the practice of bringing a series of separate but related approval applications contributes to the efficient and effective administration of the Gambling Act.¹

Decision

15. Pursuant to conditions 6 and 7 of SCAL's venue licence, the Commission approved the proposed construction and design changes to level 5 of the Auckland 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

10 August 2018



¹ Section 139(2)(c), Gambling Act 2003