

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY AUCKLAND LIMITED** to vary conditions 9 and 9A of its venue licence

BEFORE THE GAMBLING COMMISSION

Members: L M Hansen (Chief Gambling Commissioner)
D C Matahaere-Atariki
W N Harvey
S C L Pearson

Date of Application: 6 May 2020

Date of Decision: 8 May 2020

Date of Notification
of Decision: 21 May 2020

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
TO VARY CONDITIONS 9 AND 9A OF ITS VENUE LICENCE**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission, pursuant to section 139(1)(d) of the Gambling Act (the "**Act**"), to vary conditions 9 and 9A of its venue licence.

Licence conditions

2. The relevant licence conditions, together with the proposed amendments shown in mark-up, 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 ~~An additional Gambling Area for level 3~~ of the casino are ~~is~~ 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. Either or both of the alternative ~~The additional~~ 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 ~~additional~~ Gambling Areas; and
 - (b) the Licence Holder specifying in the notice, the date and time at which either or both of the alternative ~~additional~~ Gambling Areas will take effect and the date and time they ~~it~~ will terminate. At the end of the notified period the Gambling Area will revert to the area delineated in Schedule 1.

SCAL's submissions

3. SCAL submitted, in summary, as follows:
 - (a) Pursuant to condition 9 of its venue licence, the current Gambling Area for the casino venue is delineated in the plans attached as Schedule 1 to its conditions. An additional Gambling Area for level 3 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 for in condition 9A.
 - (b) It wants to add an alternative Gambling Area for level 2 of the casino which will be included in Schedule 2. The alternative Gambling Area provides for a reduction to the current Gambling Area on level 2, the effect of which is to create a larger undesignated area by the lift lobby at the rear of level 2.
 - (c) To facilitate the addition of an alternative Gambling Area for level 2, it wants to amend conditions 9 and 9A of its venue licence.
 - (d) Once the casino resumes operations, it expects that contact tracing requirements will require customers to register their details before entering the casino.
 - (e) In order to facilitate this process, it wants to expand the non-Gambling Area at the rear of level 2, where customers first enter from the theatre and lifts. This will allow it to create an appropriate registration point, and monitor entry without the restriction constraints created by a Gambling Area designation.
 - (f) The front entry to the casino already provides for a large area that is designated as non-gambling, and it wants to establish something similar at the other end of the casino.
 - (g) It does not anticipate requiring an expanded non-Gambling Area in this location once the COVID-19 requirements are relaxed and accordingly is not seeking to change the Gambling Area permanently. Thus, it is proposing an alternative plan that can be triggered by a notice period.

The Secretary's submissions

4. The Secretary advised that he had no regulatory concerns with the proposal.

Analysis

5. SCAL applied to vary condition 9 and 9A in order to reduce the designated Gambling Area at the Auckland casino in anticipation of the casino opening at Alert Level 2.
6. As with some recent decisions, the Commission has been asked to consider an application with some urgency and outside of its usual monthly meeting cycle owing to the extraordinary circumstances that exist with COVID-19. Because of these extraordinary circumstances, the Commission was prepared to do so.
7. The Commission also took the unusual step of notifying SCAL of its decision by email and in advance of issuing a fully reasoned, written decision. The Commission did so because the value of determining the application quickly would have been undermined if the outcome of the application had not been relayed until a written decision was available.
8. However, as it also noted in the similar recent decisions, the Commission emphasises that the foregoing steps were taken solely in the light of the extraordinary circumstances that currently exist. The Commission's usual practice does not involve considering applications on an expedited basis outside of its usual monthly meeting cycle, nor advising applicants of the outcome of an application in advance of issuing a written decision. Its decision to do so in this and similar recent cases should not be taken as signaling a change in practice.
9. The purpose of the application was to enlarge the non-Gambling Area at the back entrance to the casino so that SKYCITY could create a registration point where patrons can be checked, and their entry into the casino be monitored. SCAL's proposal was motivated by implementing appropriate COVID-19 measures when the casino reopens.
10. In the extraordinary circumstances that currently exist, the Commission considered the proposal to be sensible and approved the proposed variations to conditions 9 and 9A of SCAL's venue licence.
11. In reaching this decision, the Commission noted that the casino's Gambling Area is being reduced by the proposal and that the Secretary had no regulatory concerns.

Decision

12. The Commission varied conditions 9 and 9A of SCAL's venue licence, pursuant to section 139(1)(d) of the Act. Conditions 9 and 9A now provide as follows:
 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 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. Either or both 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.

Right of appeal

13. 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.

Lisa Hansen

Lisa Hansen
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

21 May 2020

