

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

**AND** on an application by **SKYCITY CASINO MANAGEMENT LIMITED** for approval to vary licence condition 6A for the Auckland Casino

**BEFORE THE GAMBLING COMMISSION**

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

Date of Application: 22 June 2017

Date of Decision: July 2017

Date of Notification of Decision:  July 2017

**DECISION ON AN APPLICATION BY SKYCITY CASINO MANAGEMENT LIMITED FOR APPROVAL TO AMEND LICENCE CONDITION 6A OF ITS OPERATOR'S LICENCE FOR THE AUCKLAND CASINO**

**Introduction**

1. SKYCITY Casino Management Limited ("**SCML**") applied to the Commission for approval to vary condition 6A of SCML's operator's licence for the Auckland Casino, under section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to increase the maximum number of substitute tables that it can install.
2. Section 140 of the Act requires the Commission to notify the licence holder, the Secretary for Internal Affairs ("**Secretary**") and other potentially affected persons of the proposed changes. The Commission invited submissions from the Secretary, Ministry of Health, Problem Gambling Foundation, Salvation Army Oasis ("**SA**") and Homecare Medical. It received submissions from the Secretary, Homecare Medical and SA.

**Licence condition**

3. The licence condition, with the proposed variations shown in mark-up, are as follows:

**SCML's operator's licence (Auckland)**

- 6A. In addition to the gaming tables specified in condition 6, condition 6AA and condition 6AAA the Licence Holder may install up to twelve~~eight~~ gaming tables on levels 2, 3 and/or the north side of level 5 to be used as substitutes for the tables in the gaming salons on the south side of level 5 and on level 7 of the Grand Hotel when some or all of those tables are not in use. The location of the substitute tables will be defined in approved floor plans. The substitute tables are subject to the following requirements:

- (a) they must be clearly identified by the letters "ST" in the approved floor plans for levels 2, 3 and/or the north side of level 5;
- (b) each substitute table must be paired with a table shown in an approved floor plan for the south side of level 5 and on level 7 of the grand Hotel;
- (c) a substitute table may only be opened for play ~~may~~ when the paired table is closed;
- (d) each substitute table can only deploy casino games in compliance with an approved game mix for the paired table that is not in use; and
- (e) they must be entered on the SGM system as substitute tables.

### The Act

4. 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 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).

#### SCML's submissions

5. SCML submitted, in summary, as follows:

- (a) In decision GC24/11 the Commission approved the installation of 12 gaming tables on levels 2 and 3 to be used as substitutes for the tables on level 5 when some or all of the tables on level 5 were not in use. SCML subsequently applied for a variation to the number of substitute tables from 12 to 8 when the number of tables housed in the international gaming salons on level 5 changed to 8. The Commission approved that variation in decision GC33/11.
- (b) Further changes to game mixes and floor plans mean that it now operates 10 tables in the level 5 international salons and nine additional tables have been deployed in the recently established international gaming salons on level 7 of the Grand Hotel.

- (c) The original rationale for the installation of substitute tables was recognition that international salons were designed specifically for international VIP players. As international business tends to be sporadic, there are inevitably significant periods where all the tables located in the salons are not required for play. While those tables could potentially be relocated to other parts of the casino where there might be a demand for them, the impracticality of physically moving the tables and having new floor plans approved at short notice led to the development of the substitute table arrangement. This has worked well over the years and has not created any compliance issues.
- (d) Given the increase in the number of tables located in the international salons, it now wants to increase the number of substitute tables to 12 as previously provided for in the licence conditions. Although there are 19 tables in the international salons it does not believe there would be any demand for 19 substitute tables at this stage, nor would there be sufficient room to deploy 19 additional tables. To date, it has never utilised all eight substitute tables, which the conditions currently provide for, at any one time.
- (e) However the substitute table arrangement as proposed in the variation application would facilitate the conduct of poker tournaments that are conducted from time to time involving the use of up to 22 poker tables. It traditionally relies on a game mix involving the operation of 10 poker tables for day to day operations, but for tournament purposes may want to deploy a further 12 poker tables for the duration of the tournament (which the approved game mixes provide for). These additional tables would generally be deployed in a specific area of the casino for the duration of the tournament and their installation would require for 12 other tables to be physically removed from the floor. Alternatively, under the current conditions, it could remove four tables from the floor (and seek approval for a floor plan identifying eight existing tables as substitute tables). That would negate the need to remove those eight tables from the floor and allow them to be operated in circumstances where 'paired' tables in the salons were closed.
- (f) Subject to the approval of the variation application, if it was to conduct a 22 table poker tournament, it could deploy the additional poker tables without having to remove any other tables from the floor by seeking approval for a floor plan identifying 12 existing tables as substitute tables. By also recognising that the salons on level 7 of the Grand Hotel could be used for the pairing process, it could potentially operate up to nine of the substitute tables, in circumstances where the salons on level 5 of the main complex were being utilised but the level 7 salons were closed.



**The Secretary's submissions**

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

**Homecare Medical's submissions**

7. Homecare Medical advised that it had no comment on SCML's proposal.

**SA's submissions**

8. SA submitted, in summary, as follows:

- (a) In general it found the application to increase the number of substitute tables in the Auckland Casino fair and reasonable, especially in respect of the fact that the Commission granted SCML permission to install the requested 12 substitute tables decision GC24/11. It appreciates that there are provisions in place to ensure that the substitute tables are only in play when their paired tables are closed, and that the tables can only deploy casino games that comply with an approved game mix.
- (b) It recognises that physically relocating gaming tables for poker tournaments is impractical and supports SCML's proposal to use substitute tables to facilitate these tournaments, insofar as doing so satisfies approved game rules and the conditions of its operator's licence for the Auckland casino. Of note, poker is a game with fewer player spaces and a slower speed of play than other table games, and as such, it sees little cause for concern on this matter.
- (c) Its principal concern is whether any proposed variations to licence conditions could increase gambling harm. From this perspective it notes that the installation of additional substitute tables will allow SKYCITY to maximise its current opportunities by allowing the Auckland casino more flexibility to switch tables in favour of shifting consumer demand, from periodically less profitable tables (e those in the international salons) to tables on gaming floors with higher consumer traffic. While increasing the attractiveness or accessibility of current available opportunities for gambling does not specifically constitute an increase in opportunities for casino gambling, it may indeed increase the level of gambling. It therefore suggests that additional safeguard measures, including Host Responsibility and the provisions detailed in condition 6A of SCML's operator's licence, be employed to mitigate the potential risk of gambling harm.



### Analysis

9. In decision GC24/11, the Commission varied a number of licence conditions to allow SCML to install 12 additional gaming tables on levels 2 and 3, to be used as substitutes for tables on level 5. The conditions approved set out that the substitute tables would have to be identified as such and matched or paired with a table of the same design on level 5.
10. In decision GC33/11, after application by SCML, the Commission varied the licence conditions, again to allow SCML to install eight gaming tables (reduced from 12) on levels 2 and 3 and/or the north side of level 5, to be used as substitutes for tables on the south side of level 5. Again, the conditions approved set out that the substitute tables would have to be identified as such and matched or paired with a table of the same design on the south side of level 5.
11. Decision GC33/11 also set out that:
  - 9 When the Commission approved the Substitute tables for levels 2 and 3, the intention was that they would be the equivalents of those tables on level 5, and provide a practical solution to difficulties which would have arisen from what otherwise would have been a need for constant physical relocation of tables. The tables in the level 5 salons were being used relatively infrequently by VIPs with the result that up to 12 tables could be inactive for extended periods of time unless they were physically relocated to another area of the casino in accordance with an approved floor plan. Rather than requiring the physical relocation of those 12 tables to other parts of the casino before they could be used, an additional 12 tables were permitted to be installed, with those tables becoming active and available for play only when the matching level 5 tables were closed. The arrangement was intended to be a substitute for a physical redeployment so that whatever was permitted on the 12 tables on level 5 would be permitted on the 12 Substitute tables located on levels 2 and 3. The "pairing" is not limited to whatever tables were actually deployed in the level 5 salons when they were closed - It is with the floor plans which apply to those tables (ie what could be deployed there).
  - 10 The arrangement does not raise any issues in relation to increasing opportunities for casino gambling as SCML can also only deploy the Substitute tables in compliance with game mixes that have already been approved for the level 5 salons.
  - 11 SCML's proposal to reduce the number of Substitute tables from 12 to eight and to allow the potential placement of Substitute tables on level 5 raises no issues of regulatory concern for the same reason. There will be no increase in opportunities because SCML must adhere to a previously approved game mix regardless of where the tables are located.
  - 12 The only issue for consideration is whether the Inspectorate can maintain an adequate oversight of the Substitute tables across all three levels. The Secretary advised that the Inspectorate could do so.
12. All the same circumstances appear to apply to this current application. SCML would still be required to keep to a required game mix.



13. SA has raised concerns that any such change could result in increased gambling harm. However the Commission noted the current Host Responsibility Programme in place at the Auckland casino and considers that it already incorporates protection in this regard. This issue may be reconsidered if appropriate at the next Auckland HRP review.

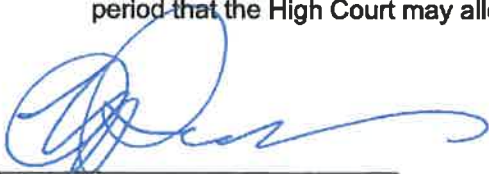
#### Decision

14. The Commission approved SCML's application to amend condition 6A of its operator's licence for the Auckland casino, pursuant to section 139(1)(d) of the Act. Condition 6A now reads as follows:

- 6A. In addition to the gaming tables specified in condition 6, condition 6AA and condition 6AAA the Licence Holder may install up to twelve gaming tables on levels 2, 3 and/or the north side of level 5 to be used as substitutes for the tables in the gaming salons on the south side of level 5 and on level 7 of the Grand Hotel when some or all of those tables are not in use. The location of the substitute tables will be defined in approved floor plans. The substitute tables are subject to the following requirements:
- (a) they must be clearly identified by the letters "ST" in the approved floor plans for levels 2, 3 and/or the north side of level 5;
  - (b) each substitute table must be paired with a table shown in an approved floor plan for the south side of level 5 and on level 7 of the grand Hotel;
  - (c) a substitute table may only be opened for play when a paired table is closed;
  - (d) each substitute table can only deploy casino games in compliance with an approved game mix for a paired table that is not in use; and
  - (e) they must be entered on the SGM system as substitute tables.

#### Right of appeal

15. Pursuant to section 235 of the Act, a person affected by the decision recorded in paragraph 26 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

25<sup>th</sup> July 2017

