

IN THE MATTER of the Gambling Act 2003

AND on applications for authorisation to appear and be heard at the public hearing of the application by **SKYCITY CASINO MANAGEMENT LIMITED** and **SKYCITY HAMILTON LIMITED** to substitute gaming machines for gaming tables at the Hamilton Casino

BEFORE THE GAMBLING COMMISSION

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

Date of Decision: 16 July 2019

Date of Notification
of Decision: 17 July 2019

DECISION ON APPLICATIONS FOR AUTHORISATION TO APPEAR AND BE HEARD AT THE PUBLIC HEARING OF THE APPLICATION BY SKYCITY CASINO MANAGEMENT LIMITED AND SKYCITY HAMILTON LIMITED TO SUBSTITUTE GAMING MACHINES FOR GAMING TABLES AT THE HAMILTON CASINO

Introduction

1. The Gambling Commission received an application from SKYCITY Casino Management Limited and SKYCITY Hamilton Limited (together referred to as "**SKYCITY**") proposing a number of changes to Hamilton Casino, including changes to SKYCITY's licence conditions. In particular, SKYCITY has applied to deploy 60 gaming machines in substitution for three Black Jack tables.
2. The Commission subsequently gave public notice of SKYCITY's application and sought written submissions from potentially interested parties and members of the public. The Commission also invited applications for authorisation to appear and be heard at the public hearing of SKYCITY's application.
3. The Commission received applications for authorisation to appear and be heard from: SKYCITY, Hamilton City Council, PGF, SA, Mapu Maia, Anglican Action, MoH, Waikato DHB, Dennis Trotter, Christian Alliance, Des Corcoran, Jason Howarth, Colin Bridle, and Voice Waikato. The Waikato Chamber of Commerce did not apply for authorisation to

appear but filed a written submission and offered to appear if required by the Commission.

4. By letter dated 6 June 2019, the Commission wrote to the parties listed above inviting submissions on the applications to appear. To assist with the submissions, the Commission set out its preliminary view on who it should authorise to appear and be heard, namely SKYCITY, the Hamilton City Council, PGF, SA, Mapu Maia, Anglican Action, MoH, Waikato DHB and Dennis Trotter. It followed that the Commission's preliminary view was that it would not authorise appearances in person for Christian Alliance, Des Corcoran, Jason Howarth, Colin Bridle, Voice Waikato or the Waikato Chamber of Commerce.
5. The submissions received from MoH, PGF, Anglican Action, Hamilton City Council and SA were broadly supportive of the Commission's preliminary view, but with SA urging the Commission to reconsider its position on Des Corcoran and Colin Bridle, and MoH and PGF submitting that the Commission should allow any interested person to appear and be heard at the public hearing, even if only briefly.
6. SKYCITY was also broadly supportive of the Commission's preliminary view but did not support Mapu Maia or Dennis Trotter being authorised to appear and be heard.
7. SKYCITY submitted that Mapu Maia is part of the PGF Group, which the Commission had indicated would be authorised to appear, and that two groups from the same entity should not both be heard. In response, Mapu Maia submitted that, although it is part of the PGF group, it has its own Advisory Board and discrete public health programme. It said that its work is targeted specifically to Pasifika and that Mapu Maia is the only Pacific voice with an opportunity to present at the public hearing, something which is desirable given the large Pacific population in the Waikato.
8. SKYCITY opposed Mr Trotter being given party status because, in addition to submitting that he had no special interest apart from an interest in common with the public, it is under no obligation to deploy any particular type of table game and, in any event, Black Jack will continue be deployed at the Hamilton casino, even if SKYCITY's application were to be successful. In response, Mr Trotter submitted that his submission appeared to be the only submission opposing SKYCITY's application on a basis other than the social impact of gaming machines. He also submitted that "Black Jack Plus" and "Beat the Dealer" are derivatives of standard Black Jack but are not games of Black Jack. He confirmed the position that he outlined in his primary submission; namely that the removal of three Black Jack tables (not derivatives of Black Jack) would leave the Hamilton casino with no Black Jack tables.

9. SKYCITY also supported the Waikato Chamber of Commerce being authorised to appear and be heard, even though it did not originally apply to appear. The Chamber of Commerce sought authorisation only after receiving the Commission's preliminary views.
10. SKYCITY submitted that the Waikato Chamber of Commerce would add a different voice to the other submitters that the Commission proposes to authorise because it supports SKYCITY's application and is able to comment on SKYCITY's corporate social responsibility and the positive contribution of SKYCITY's application to the Waikato economy.
11. SKYCITY's submission also made oblique reference to a separate confidential communication to the Commission. The Commission has responded directly to that communication. Its contents are, in any event, beyond the scope of the applications under consideration and will be addressed separately and subsequently if that becomes necessary.

Authorisation to appear

12. The Commission confirms that appearance by the Applicant is expected at the public hearing.
13. The Commission authorises the Hamilton City Council to appear and be heard. The Hamilton City Council, as the territorial authority in whose area the casino is located, can be regarded as a local government representative of the people of Hamilton.
14. The Commission authorises Problem Gambling Foundation and Salvation Army Oasis to appear. Both organisations have knowledge, interest, experience and expertise about the harm caused by gambling and its effect on community interests. Both are national organisations which are involved in assisting problem gamblers and which regularly make submissions to the Commission on the regulation of casinos under the Gambling Act.
15. The Commission authorises Anglican Action to appear and be heard. Anglican Action appears to be a longstanding local community services organisation, focused on assisting the vulnerable in Hamilton and associated with the Anglican Church, the Waikato Diocese of which took an active part at the original licence hearing before the Casino Control Authority, which imposed the condition in issue.
16. The Commission authorises the Ministry of Health, and the Waikato DHB to appear and be heard. The former is the central government body responsible for the funding and co-ordination of problem gambling services in New Zealand; the latter is responsible for delivering health services to the people of the Waikato region, including public health services locally.

17. The Christian Alliance, Des Corcoran, Jason Howarth, Colin Bridle and Voice Waikato all filed written submissions and sought authorisation to appear at the public hearing. Having read their written submissions, it is not clear to the Commission that appearances in person would provide further material assistance to the Commission. The content of their submissions is broadly similar to more detailed submissions made by other parties, discussed above. The Commission does not authorise their appearances.
18. The Commission does not authorise Mapu Maia to appear and be heard. It is not clear to the Commission that the appearance in person of Mapu Maia would provide further material assistance when Mapu Maia's submission has substantial similarities to the submission made by PGF, including many *verbatim* submissions. PGF will be authorised to appear and should be able to incorporate material from Mapu Maia into the presentation of its case.
19. The Commission does not authorise Dennis Trotter to appear and be heard. While the Commission's preliminary view was that Mr Trotter offered a perspective which no other submitter adopted, on further reflection, the Commission has now formed the view that an appearance is unnecessary. The Commission has read and fully understood the written submission by Mr Trotter and does not require him to appear.
20. The Commission does not authorise the Waikato Chamber of Commerce to appear and be heard. When setting out its preliminary view on 6 June 2019, the Commission stated that it had read and understood the Chamber's written submission and did not require it to be heard. In its (late) application to appear and be heard, the Chamber stated that "[it] would like to present" at the public hearing, but it provided no other submissions to support authorisation.
21. SKYCITY set out reasons why, in its view, the Chamber should appear in person (see paragraph 10 above) but the Commission was not persuaded that the appearance in person of the Waikato Chamber of Commerce would provide further material assistance to the Commission.
22. The Commission received a late application to appear and be heard from Dwayne Henshilwood. In support of his application, Mr Henshilwood submitted that, although he did not originally intend to speak to his written submission, he has since discussed SKYCITY's application with other disability providers and learnt that they were unaware of SKYCITY's application. Mr Henshilwood wants to ensure that the voice of disabled people is heard as these people are more adversely affected by gaming machines than Black Jack tables.

23. The Commission does not authorise Mr Henshilwood to appear and be heard. It has formed the view that an appearance is unnecessary. The Commission has read and fully understood Mr Henshilwood's submission.
24. On 12 July 2019, the Commission was made aware that four parties who provided submissions to a third party had indicated to that third party that they wanted to appear and be heard at the public hearing. The Commission does not authorise the appearance of those four parties. In its public notice dated 22 March 2019, the Commission invited applications for authorisation to appear and be heard on SKYCITY's application by 17 May 2019. By the time the Commission was made aware of the applications, they were well out of time to be considered.
25. All unsuccessful applicants, together with the public at large, are very welcome to attend the public hearing to observe proceedings, but not to participate.

Consultation with Maori

26. In their submissions on the abovementioned pre-hearing issue, SA and PGF both expressed concern about the Commission's lack of consultation with Maori in relation to SKYCITY's substantive application, a view also expressed to the Commission by MoH.
27. Although not directly related to the determination of appearances at the public hearing, the Commission addresses the concerns expressed about its engagement with Maori.
28. The Commission contacted Tainui by telephone on 21 March 2019 to apprise it of SKYCITY's application. Later that day, the Commission provided Tainui with a copy of SKYCITY's application and supporting documentation. On 22 March 2019, the Commission invited Tainui (together with a number of other potentially interested parties) to file a written submission and to seek authorisation to appear and be heard at the public hearing. The Commission has received no response from Tainui.

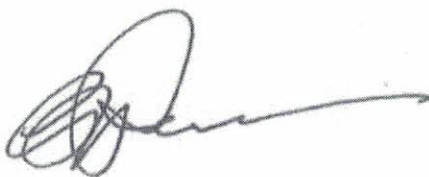
Hearing directions

29. The Commission intends to liaise with the Applicant and the six other parties authorised to appear and be heard, with a view to setting a timetable for the filing of evidence and submissions, and to fix dates for the public hearing.
30. All details will be uploaded onto the Commission's website.

Decision

31. The Commission authorises the Applicant, Hamilton City Council, PGF, SA, Anglican Action, MoH and Waikato DHB to appear and be heard at the public hearing of this matter.

32. The Commission does not authorise appearances by Mapu Maia, Dennis Trotter, Christian Alliance, Des Corcoran, Jason Howarth, Colin Bridle, Voice Waikato, the Waikato Chamber of Commerce or Dwayne Henshilwood.



Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

17 July 2019

