

IN THE MATTER of the Gambling Act 2003

AND on applications by **SKYCITY HAMILTON LIMITED** and **SKYCITY CASINO MANAGEMENT LIMITED** for approval of construction and design changes, to vary the designated Gambling Area, and for approval of a new floor plan for the Hamilton 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: 18 September 2018

Date of Decision: 8 October 2018

Date of Notification
of Decision: 15 October 2018

**DECISION ON
APPLICATIONS BY SKYCITY HAMILTON LIMITED AND
SKYCITY CASINO MANAGEMENT LIMITED
FOR APPROVAL OF CONSTRUCTION AND DESIGN CHANGES, TO VARY THE
DESIGNATED GAMBLING AREA, AND FOR APPROVAL OF A NEW FLOOR PLAN
FOR THE HAMILTON CASINO**

Application

1. SKYCITY Hamilton Limited ("**SHL**") and SKYCITY Casino Management Limited ("**SCML**") (together the "**Applicants**") applied to the Commission:
 - (a) for approval of construction and design changes to the MGF of the Hamilton casino, pursuant to conditions 6 and 7 of SHL's venue licence;
 - (b) to vary the designated Gambling Area, pursuant to condition 9 of SHL's venue licence and section 139(1)(d) of the Gambling Act 2003 (the "**Act**"); and
 - (c) for approval of a new floor plan, "December 2018", pursuant to conditions 11 and 12 of SCML's operator's licence for the Hamilton casino.

Licence conditions

2. The relevant licence conditions are as follows:

SHL venue licence

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Levels B1 and 1 of the Casino Venue, including the Gambling Area;
 - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
 - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels B1 and 1 of the Casino Venue (6(a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must 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 B1 and 1 of the Casino Venue. 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 he or she is satisfied that there are no adverse impacts in relation to the matters specified in (a)-(e) above. If the Executive Director is not satisfied, he or she will refer the proposal to the Commission for determination.

9. The current standard Gambling Area for the Casino Venue is delineated in the plan attached as Schedule 1 to these conditions. An additional Gambling Area for level B1 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 in condition 9A.

SCML operator's licence (Hamilton)

11. The Licence Holder shall operate in accordance with approved floor layouts showing the position of gaming tables and gaming machines.
12. The Licence Holder shall obtain the approval of the Commission for new floor plans prior to relocating or installing tables or machines in positions not specified in approved floor layouts. When applying, the Licence Holder must submit fresh plans showing the floor layout for the Gambling Area and details of the proposed CCTV layout for the consideration of the Commission. Any changes must comply with the Surveillance Standard. The Executive Director and a single Gambling Commissioner may approve the new floor plans if they are satisfied that the floor layout has no potentially adverse effects. If they are not so satisfied, the proposed floor plan must be referred to the Commission for a decision on approval.

Relevant section of the Act

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

Gambling Act 2003**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).

Submissions by the Applicants

4. The Applicants submitted, in summary, as follows:
 - (a) In decision GC11/18 the Commission approved construction and design changes to the MGF of the Hamilton casino, and redesignated the Gambling Area to create an additional outdoor area where patrons can smoke while playing gaming machines. The approval provided for the removal of a set of doors and the installation of a sliding door in its place, albeit in a slightly revised location. The change was to optimise the space on the deck but following a further review, it is no longer considered the most appropriate way forward and these approved changes will not be implemented.

- (b) The deployment of eight EGMs in the outdoor area was approved in floor plan “June 2018” pursuant to a delegated approval. This deployment will still be implemented and SCML expects to be reliant on plan “June 2018” in October 2018.
- (c) They now want to expand the outdoor area to enable additional EGMs to be deployed in this area. To do so, they propose relocating one of the outer walls on the balcony further inside the casino, and moving the stage currently occupying that area to a new location.
- (d) The proposed changes will have no adverse impact on the matters set out in condition 7. Adjustments to the CCTV system will ensure that gambling activity continues to satisfy the Surveillance Standard.
- (e) The proposed construction and design changes will require a consequential change to the designated Gambling Area as it relates to the outdoor gambling area. It wants to move the line of the Gambling Area so that it follows the outer edge of the outdoor area, from the point of expansion to the end of the outdoor area. The proposed new area is within the defined casino venue.
- (f) The area in question is not accessible to minors as anyone visiting this area would need to have entered another part of the Gambling Area, which is monitored by Security.
- (g) Subject to the Commission’s approval of the construction and design changes and redesignation of Gambling Area, they want to deploy a total of 21 EGMs in the outdoor area. Eight of the EGMs will be deployed pursuant to plan “June 2018”.
- (h) They want to introduce a new floor plan, “December 2018”, showing the deployment of the 21 EGMs in this area.
- (i) They will ensure that gambling activity in the new location is not visible from outside the casino venue.
- (j) Subject to the Commission’s approval, they will transition to plan “December 2018” following completion of the construction and design changes.
- (k) Once they are reliant on plan “December 2018”, plan “June 2018” will cease to be valid.

Submissions by the Secretary

5. The Secretary had no regulatory concerns with these proposals.

Analysis

6. The Applicants have applied to the Commission to expand the outdoor gambling area at the Hamilton casino, having previously obtained the necessary Commission approvals to deploy eight EGMs in that space. The construction and design changes previously approved will not be executed, with the Applicants instead seeking to make additional changes to allow 21 EGMs to be deployed there.
7. Pursuant to condition 6 of its venue licence, SHL must obtain the approval of the Commission prior to construction and design changes to Levels B1 and 1 (MGF) of the Gambling Area with the process by which approval is obtained being set out in condition 7. The Commission was satisfied that the proposed changes would have no adverse impact on any of the matters specified in condition 7 of SHL's venue licence (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) and approved the proposal accordingly.
8. SHL also applied to redesignate the casino's Gambling Area to extend the outdoor Gambling Area.
9. 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 licence conditions defining the amended area are consistent with section 139(2) of the Act.
10. The venue licence for the Hamilton casino defines the casino venue, where relevant, as "That part of the property situated at 346 Victoria Street, Hamilton, being more fully described in the First and Second Schedules to this licence." The First Schedule sets out the legal description of the casino, with the Second Schedule depicting the casino pictorially with plans.
11. The Commission was satisfied that the proposed extension to the Gambling Area is within the defined casino venue.
12. SCML has approval to deploy eight EGMs in the outdoor area at the casino and now seeks approval of a new floor plan allowing it to deploy an additional 13 EGMs in this area.
13. The Commission was satisfied that the proposed floor plan would generate no potentially adverse effects, and approved it pursuant to conditions 11 and 12. The Commission noted SCML's submission that gambling activity at the outdoor area would not be visible from outside the casino venue.

Decision

14. Pursuant to conditions 6 and 7 of SHL's venue licence, the Commission approved the proposed construction and design changes to the MGF at the Hamilton casino.
15. Pursuant to section 139 of the Act and condition 9 of SHL's venue licence, the Commission redesignated the Gambling Area in the manner proposed. Schedule 1 to the venue licence is **attached** to this decision. Schedule 2, which is unaffected by this application, is also **attached** for clarity.
16. Pursuant to conditions 11 and 12 of SCML's operator's licence for the Hamilton casino, the Commission approved new floor plan, "December 2018". A copy of plan "December 2018" is **attached** to this decision. Once SCML is reliant upon "December 2018", plan "June 2018" will cease to have effect.

Right of appeal

17. 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.



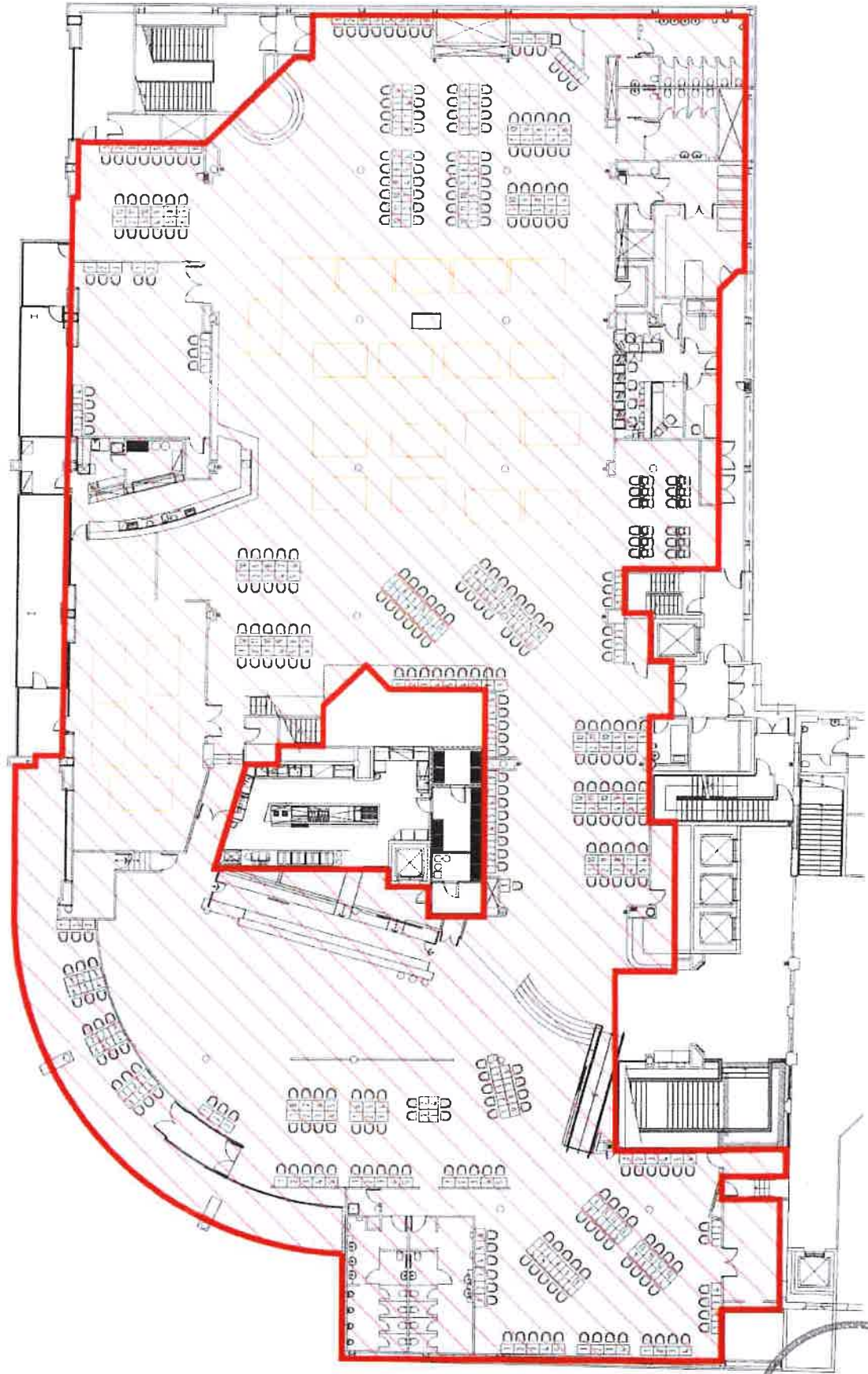
Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

15 October 2018



SCHEDULE 1



December 2018

