

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY CASINO MANAGEMENT LIMITED** for approval of a new game mix Annex for 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: 6 November 2014

Date of Decision: 5 December 2014

Date of Notification
of Decision: 10th December 2014

DECISION ON AN APPLICATION BY SKYCITY CASINO MANAGEMENT LIMITED FOR APPROVAL OF A NEW GAME MIX ANNEX FOR THE AUCKLAND CASINO

Introduction

1. SKYCITY Casino Management Limited ("**SCML**") applied to the Commission, under condition 9 of SCML's operator's licence for the Auckland casino, for approval of a new game mix Annex. SCML wants to introduce Electronic Baccarat and Electronic Tai Sai to the approved game mix Annex, with these games being deployed interchangeably with Electronic Roulette.

Licence condition

2. The relevant licence condition is as follows:

SCML's operator's licence (Auckland)

9. The Licence Holder may operate on casino gaming tables the game types and game mix(es) specified by the Commission in Annex A attached to this Licence. As an alternative to Annex A, the Licence Holder may operate on casino gaming tables the game types and game mix(es) specified by the Commission in any additional annex approved by the Commission and attached to this Licence. The Licence Holder must give the Inspectorate prior notification before it commences operation under a different annex. The game types and game mixes specified in an annex can only be changed by the Commission.

Relevant Sections of the Act

3. The relevant sections of the Gambling Act 2003 (the "**Act**") are as follows:

11 No increase in casino gambling

A person must not increase the opportunities for casino gambling.

12 What is increase in casino gambling

- (1) Decisions on what constitutes an increase in the opportunities for casino gambling are a function and responsibility of ... the Gambling Commission
- (2) An increase in the opportunities for casino gambling includes but is not limited to—
 - (a) an increase in the number of gaming machines unless the increase is accompanied by a reduction in the number of table games that the Casino Control Authority, or the Gambling Commission, believes is proportionate:
 - (b) an increase in the number of table games unless the increase is accompanied by a reduction in the number of gaming machines that the Casino Control Authority, or the Gambling Commission, believes is proportionate:
 - (c) an increase in total player space at table games unless the increase is accompanied by a reduction in other opportunities for casino gambling that the Casino Control Authority, or the Gambling Commission, believes is proportionate.
- (3) Opportunities for casino gambling are not increased—
 - (a) by increases, in the Auckland casino, that comply with the Order for the Variation of Conditions of Casino Premises Licence dated 6 December 2002:
 - (b) by gambling conducted by the New Zealand Racing Board referred to in section 120.

SCML's submissions**4. SCML submitted, in summary, as follows:**

- (a) It has an approved game mix Annex for the Auckland casino, Annex A. This Annex provides for the operation of up to 4 Electronic Roulette games.
- (b) Some time ago it submitted applications to the DIA for approval of game rules to operate Electronic Baccarat and Electronic Tai Sai. These applications have yet to be approved, but it is hopeful that they will be prior to the Commission's meeting on 5 December 2014.
- (c) In considering the Electronic Baccarat and Tai Sai rule applications, the DIA has determined that the speed of these games needs to align to that of Electronic Roulette. The wagering period for an Electronic Roulette game has traditionally been configured to 30 seconds. In addition to the wagering period, historical data derived from its Electronic Roulette games suggest that an additional 20.5 seconds is required to complete each round. Thus, a round of Electronic Roulette takes, on average, 50.5 seconds to complete, which equates to 71.3 games per



hour. This figure is very close to the 72 rounds per hour that resulted from SKYCITY's earlier 'lab' tests, and which has traditionally been used in submissions to the Commission identifying the theoretical rate of play for Electronic Roulette.

- (d) In accordance with the DIA's requirements, and following trials involving Electronic Baccarat and Electronic Tai Sai, it has identified a fixed wagering period for both games to align the rate of play on the respective games to that of Electronic Roulette. The fixed wagering period for the respective games is specified in the respective rules and should ensure that the new games of Electronic Baccarat and Tai Sai have the same rate of play as that of Electronic Roulette. The DIA has indicated that it will review the relative speeds of these games once they are deployed on the floor and to the extent that any differences arise, further rule amendments may be needed to ensure appropriate alignment.
- (e) The proposed revision to Annex A is designed to group and treat Electronic Roulette, Electronic Baccarat and Electronic Tai Sai as one game type. This is reflected in the table and in the notes for the alternative game mixes. Each game will have an identical number of player spaces (up to 30 terminals) and each is designed to operate at the same rate of play. Thus the gambling opportunities associated with each of the three game types are the same. The revised Annex A incorporates these changes.
- (f) A table is attached to its application which recognises that the rate of play associated with Electronic Roulette is the same as that used for Electronic Baccarat and Electronic Tai Sai.
- (g) The table confirms that the notional opportunities associated with each of the game mixes is less than those associated with the regulatory benchmark. It is satisfied that the revised Annex A will not increase casino gambling opportunities.
- (h) At the time of lodging this application, the rules for Electronic Baccarat and Electronic Tai Sai have not been approved. It is hopeful that they will be approved by the time of the Commission's meeting on 5 December, or soon thereafter. Ordinarily it would await the approval of the rules before lodging an application for amendments to the game mixes. However that would mean that any application would not be considered before the Commission's next meeting in February 2015 and it wants to be in a position to deploy one of these games over the Xmas/New Year period if possible.



- (i) It currently has four Electronic Roulette games and there is insufficient demand for that number of games on the floor. Accordingly it wants to convert at least one of these games to Electronic Baccarat or Electronic Tai Sai as soon as possible. In the event that the new rules have not been approved by the time the Commission meets on 5 December, it asks that this matter be considered and, if appropriate, approved subject to the proviso that the games in question may only be operated subject to the final approval of the rules.

The Secretary's submissions

5. The Secretary submitted, in summary, as follows:

- (a) SCML has applied to introduce Electronic Baccarat and Electronic Tai Sai to its mix of games, and proposes that their introduction be facilitated by amending the designation of Electronic Roulette (the version without a manual table) to incorporate Electronic Baccarat and Electronic Tai Sai. The rationale for this proposal is that the rate of play for the respective games should align.
- (b) He agreed with SCML's assessment that the rates of play between Electronic Roulette, Electronic Baccarat and Electronic Tai Sai should align. This outcome has been core to the DIA's harm minimisation considerations regarding these products. As noted by SCML, the DIA will review the relative speeds of these games once they are deployed to ensure appropriate alignment of game speeds, should unexpected differences arise. He does not anticipate that any differences would be significant or of a level that it would affect an assessment of opportunities for casino gambling.
- (c) The proposal to group electronic products in the game mixes represents a departure from the current approach (of having each table type individually noted in the game mix Annex). Should this approach not be taken and each electronic table type be separately recorded in Annex A, the potential exists for a vast increase in the number of game mixes requiring approval and tracking. With this in mind, he does not object to SCML's proposed grouping. However, such an approach does not easily provide the casino Inspectorate with certainty as to the exact mix of tables deployed on the floor. To achieve certainty, he proposes an amendment to Note 1 to the game mixes to read as follows:

The Licence Holder is permitted to change game mixes subject to providing the Inspectorate with prior notification including notification of the electronic table type(s) associated with that game mix.

- (d) SCML has noted that the rules of Electronic Baccarat and Electronic Tai Sai have yet to be approved by the Secretary. This is correct. However, the DIA has

completed its assessment of the applications and is in the process of managing the administrative requirements in order to prescribe and publish the new rules. It intends to prescribe the new rules and publish a notice in the *NZ Gazette* during the week of 15-19 December 2014.

- (e) He does not have an objection to the Commission considering this matter prior to the creation of the rules or, should the Commission consider it appropriate, providing a conditional approval in a fashion proposed by SCML. He does not consider any mischief could result; section 34 of the Act defines "casino gambling" as being subject to casino licences and as satisfying the relevant game rules. Should the Commission approve the application prior to rules being made, SCML would be constrained from deploying any product and as such, he does not consider this outcome would be contrary to the Commission's obligations under section 139(2) of the Act.
- (f) In reviewing the appendices to SCML's application he has noted an error; game mix BW is recorded as having 1 Electronic Roulette table but he presumes that this should read as 4 Electronic Roulette/Baccarat/Tai Sai tables.

SCML's submissions in reply

- 6. SCML submitted, in reply, as follows:
 - (a) It noted that the Secretary had no objection to the grouping of the three electronic table games as proposed, subject to the inclusion of a note which would require SCML to notify the Secretary of the specific mix of electronic games in operation at any one time. It has no objection to the inclusion of this footnote and has revised Annex A accordingly. It has also revised the Annex to address the error highlighted by the Secretary.
 - (b) It noted that the Secretary had no objection to the approval of the game mix featuring the new electronic games prior to the gazetting of the rules and hopes the Commission is able to give favourable consideration to this proposal for the reasons set out in this application.

Analysis

- 7. SCML sought Commission approval to amend its game mix Annex for the Auckland casino, in order to introduce two new table games; Electronic Baccarat and Electronic Tai Sai. As game rules for the games have yet to be finalised, the first matter determined by the Commission was whether it should consider SCML's application, or whether it should wait until game rules for Electronic Baccarat and Electronic Tai Sai have been approved

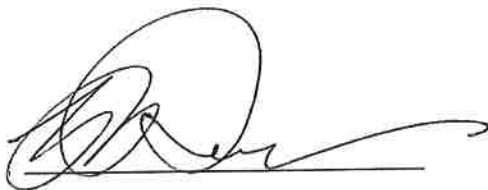
for deployment. The Commission decided that it was not prepared to consider the application until the game rules have been finalised.

8. Section 11 of the Act provides that a person must not increase the opportunities for casino gambling. Section 12 of the Act provides that decisions on what constitutes an increase in the opportunities for casino gambling are a function of the Gambling Commission.
9. As it has noted in its decisions over the years, the Commission approaches the assessment of opportunities by comparing a proposal against the approved game mix which provides the most opportunities for casino gambling, and forming a view, in the round, on whether the proposal will increase opportunities at that casino, or not.
10. Undertaking such a comparison is not a straightforward task as it usually involves a comparison of table games that can be quite different in terms of player spaces, betting opportunities and speed of play, but in making the comparison, the Commission has always at least had the certainty of knowing precisely what was permitted by game rules for each game. For example, whether player spaces are fixed or potentially limitless. Whether back-betting is permitted, and so on.
11. In the current application, SCML is requesting the Commission to make its comparison without this game rule certainty as the game rules for the two new games have yet to be approved. The Commission is not prepared to do so because until game rules have been finalised and approved for deployment, the potential exists for them to be varied, meaning that any assumptions made by the Commission in undertaking its comparison will be rendered incorrect. This in turn could affect the outcome of the comparison, including the possibility of the Commission breaching its section 12 obligations, if the game rule variations significantly impact upon casino gambling opportunities.
12. SCML and the Secretary were both comfortable with the Commission considering the application before game rules are approved on the basis that it is highly unlikely that the current draft rules will change given they are likely to be gazetted in mid-December. However, until the rules are actually gazetted, the Commission does not consider that it can make a valid comparison of the proposal with the game mix which offers the most opportunities for casino gambling at the Auckland casino.
13. Based upon the information before the Commission, SCML's proposal would appear unlikely to increase opportunities for casino gambling, compared to the existing approved game mix which offers the most casino gambling opportunities, but the Commission cannot conclude this determinatively until game rules have been finalised.

14. The Commission also notes that the proposal to treat Electronic Baccarat and Electronic Tai Sai as identical to Electronic Roulette for game mix purposes appears sensible and would not appear to raise any issues of regulatory concern, particularly given the Secretary's proposed amendment to footnote 1 of the game mix Annex.
15. SCML can submit a fresh application for Commission consideration once the game rules for Electronic Baccarat and Electronic Tai Sai have been finalised.

Decision

16. The Commission declines SCML's application, under condition 9 of SCML's operator's licence for the Auckland casino, for approval of a new game mix Annex which includes Electronic Baccarat and Electronic Tai Sai.



Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

10th December 2014

