

**IN THE MATTER** of the Gambling Act 2003  
**AND** of an application by **SKYCITY AUCKLAND LIMITED** to redesignate the Gambling Area on level 3 of the Auckland casino

**BEFORE THE GAMBLING COMMISSION**

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

Date of Application: 24 September 2018

Date of Decision: 5 December 2018

Date of Notification  
of Decision: 5 December 2018

**DECISION ON AN  
APPLICATION BY SKYCITY AUCKLAND LIMITED TO REDESIGNATE  
THE GAMBLING AREA ON LEVEL 3 OF THE AUCKLAND CASINO**

**Application**

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission, pursuant to conditions 9 and 9A of SCAL's venue licence and section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to redesignate the Gambling Area on level 3 of the Auckland casino.

**Licence conditions**

2. The licence conditions are as follows:

**SCAL's venue licence (Auckland)**

9. The current standard Gambling Area for the casino venue is delineated in the plans attached as Schedule 1 to these 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.
- 9A. The additional Gambling Area depicted in the plan 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 the additional Gambling Area; and
  - (b) the Licence Holder specifying in the notice, the date and time at which the additional Gambling Area will take effect and the date and

time it will terminate. At the end of the notified period the Gambling Area will revert to the area delineated in Schedule 1.

### Relevant sections of the Act

#### 3. The relevant sections of the Act are 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 purpose 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).
- 140 Procedure for specifying, varying, or revoking casino licence conditions**
- (1) The Gambling Commission must notify the holder of the relevant casino licence, the Secretary, and any other person who it considers is affected by a proposal to specify, vary, or revoke the conditions of a casino licence.
- (2) Notification under subsection (1) must include—
- (a) the reason for the proposal; and
  - (b) the procedure to be followed before the Gambling Commission makes a decision relating to the proposal.
- (3) The holder of the casino licence, the Secretary, and any other person affected may make written submissions to the Gambling Commission concerning the proposal within 20 working days after the date of the notice under subsection (1) or within any longer period that the Gambling Commission allows.
- (4) The Gambling Commission must consider any submissions made under subsection (3) and may, if it considers it appropriate, seek comment from the casino licence holder on the submissions received from the Secretary or other persons affected.
- (5) The Gambling Commission must notify the holder of the casino licence, the Secretary, and other persons affected of—
- (a) its decision concerning the proposal and the reasons for the decision; and
  - (b) the right to appeal the decision and the process for an appeal.

### Submissions by SCAL

#### 4. SCAL submitted, in summary, as follows:

- (a) It wants to reduce the size of the designated Gambling Area on level 3 of the casino. The area which is the subject of this application is currently accessed by persons when entering the Platinum Room. It is currently designated as a Gambling Area but does not contain any gambling equipment, only the Platinum Room toilets. It wants to redesignate the area so that it is no longer deemed to be Gambling Area.

- (b) While the area is restricted to Platinum members via card access, the pedestrian traffic around it will increase markedly following the construction of a pedestrian footbridge as part of the NZ International Convention Centre.
- (c) There is a small risk that an underage, non-member could 'tailgate' a Platinum member while entering the room and in doing so, commit an offence against the age restriction for accessing a Gambling Area. Creating a 'safe', non-gambling area similar to that used on the MGF, will mitigate this risk.

### **Submissions by the Secretary**

- 5. The Secretary submitted that he has no regulatory concerns with the proposal.

### **Analysis**

- 6. SCAL currently has two Gambling Area Schedules for level 3 at the Auckland casino. The main Gambling Area is depicted in Schedule 1 while an alternate (larger) Gambling Area is depicted in Schedule 2. SCAL wants to remove the Platinum Room toilets from the Gambling Area depicted in both Schedules in order to mitigate the risk of minors committing an offence.
- 7. 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 amended licence conditions are consistent with section 139(2) of the Act. The venue licence for the Auckland casino defines the casino venue, where relevant, as "All the land and buildings bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West ...." The variation proposed to the Gambling Area is clearly within the boundary of the casino venue.
- 8. The licence conditions, which will not be amended as a result of the application, will remain consistent with section 139(2) of the Act.
- 9. SCAL's proposal raises no other issues of regulatory concern and was not opposed by the Secretary.

### **Decision**

- 10. The Commission approved, under conditions 9 and 9A of SCAL's venue licence, and section 139 of the Act, the redesignation of the Gambling Area at the Auckland casino in the manner proposed. The level 3 plan depicting the new Gambling Area for Schedule 1 attached to SCAL's venue licence is **attached**, as is the level 3 plan depicting the new Gambling Area for Schedule 2 attached to SCAL's venue licence.

**Right of appeal**

11. 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.



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**Graeme Reeves**  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

5 December 2018

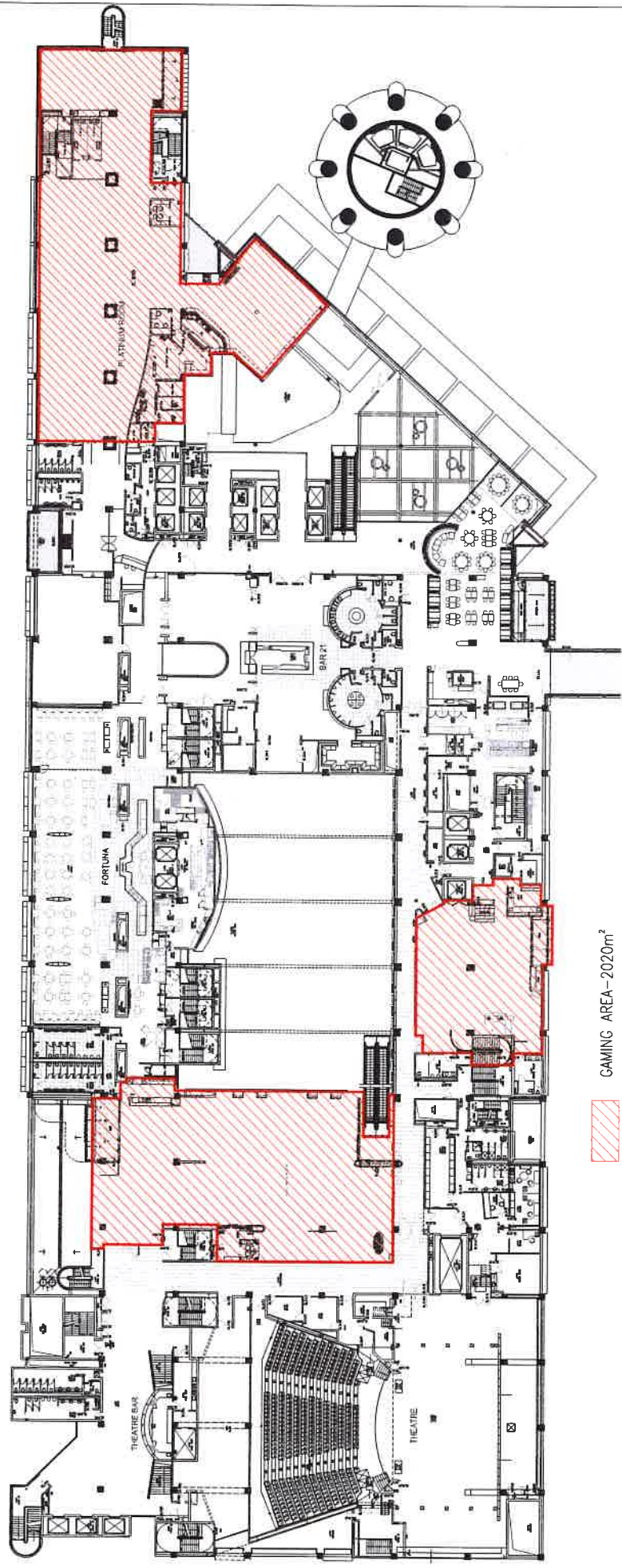


**GAMBLING  
COMMISSION**

# SCHEDULE 1



**SKY CITY MAIN SITE**  
**Level 3**



GAMING AREA - 2020m<sup>2</sup>



# SCHEDULE 2

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