

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY CASINO MANAGEMENT LIMITED** to vary condition 9 of its operator's licence for the Auckland casino

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
P J Stanley
L M Hansen
R D Bell
A K Foote

Date of Application: 4 July 2011

Date of Decision: 12 August 2011

Date of Notification
of Decision: 18th August 2011

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
TO VARY CONDITION 9 OF ITS OPERATOR'S LICENCE
FOR THE AUCKLAND CASINO**

Introduction

1. SKYCITY Casino Management Limited ("**SCML**") applied, pursuant to section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to vary condition 9 of its operator's licence for the Auckland casino. SCML proposed to attach a new Annex D to its operator's licence which provides for 16 rather than 18 gaming tables in the Pacific VIP Room on level 5.

Licence condition

2. The relevant licence condition, with the proposed variation in mark-up, is as follows:

SCML's operator's licence

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. The Licence Holder may operate on casino gaming tables the game types and game mix(es) specified by the Commission either Annex B, ~~or Annex C~~ or Annex D attached to this Licence subject to providing the Commission and the Inspectorate with a minimum of 10 working days notice in writing of its intention to do so. The Licence Holder shall obtain the prior approval of the Commission for any change to the game types and/or game mixes specified.

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 the 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).

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 SCML**4. SCML submitted, in summary, as follows:**

- (a) In September 2011 it will open a new gambling area on level 5 of the Auckland casino and had planned to adopt one of the game mixes specified in Annex C attached to its operator's licence. Annex C provides for the operation of location specific game mixes with eight tables in the gaming salons on the south side of level 5, four tables in the gaming salons on the north side salon of level 5, 18 tables in the Pacific VIP area, and 80 tables in the remaining gambling areas.
- (b) Since Annex C was approved it has further reviewed its game mixes, and now considers that the Pacific VIP Room may be more suited to 16 rather than 18

tables. It wants to provide for the possibility of locating only 16 tables in this area, and housing the additional two tables in the main Gambling Area.

- (c) Once the Pacific VIP Room is fitted out and it has a better feel for pedestrian flows and patronage, it may wish to revert to 18 tables, so it seeks approval for an additional, rather than a replacement Annex.
- (d) The new Annex D has no impact on the game mixes in the VIP salons on level 5, but does provide for a change in the number of tables that may be operated in the Pacific VIP Room and in the remaining gambling areas on levels 2 and 3. Annex D also includes game mixes which feature the introduction of a new game, Ultimate Texas Hold'em.
- (e) Annex C has also been revised to include game mixes which feature Ultimate Texas Hold'em. The revised Annex C includes five additional game mixes, M4, N4, O4, P4 and Q4 for levels 2 and 3.
- (f) Once reliant on Annex C or D, it will have no need to retain Annex A or B.
- (g) In terms of assessing the rate of play of the game mixes, it has, with one exception, used figures derived from earlier trials considered by the Commission in decisions GC17/10 and GC12/11.
- (h) The one exception relates to Ultimate Texas Hold'em. As there was no intention to introduce this game at the time of the earlier trials, it was not assessed at those trials. It conducted trials for this game in SCML's Training Room. The conditions applied to the trial were the same as those used in the earlier trials, and the DIA Inspectorate attended.
- (i) Ultimate Texas Hold'em is played on a layout which can have up to seven player spaces. One deck of cards is used. Over the course of the 15 minute trial, eight rounds of the game were completed. The trial game was conducted manually with the dealer shuffling the cards between each round. An automatic shuffler may be used to deal this game. While such a shuffler was not available for the purposes of the trial, the assessments carried out in 2010 leading to decision GC17/10 in relation to similar types of games indicate that when an automatic shuffler is deployed, an additional 1-2 rounds of play are likely to be generated over a 15 minute period. As it may wish to use an automatic shuffler on this game it has treated Ultimate Texas Hold'em as generating 10 rounds per 15 minute period for the purpose of its calculations.

- (j) Below is a table which sets out the game mixes with the greatest number of player spaces and opportunities for each of the four gambling locations specified in the revised Annex C.

Game mix	Player spaces	Opportunities
Salons on the south side of level 5 – game mix A	216	6,372
Salons on the north side of level 5 – game mix A	108	3,186
Pacific VIP Room – game mix A	418	11,118
Rest of the casino – game mix C	1,553	42,350
Total	2,295	63,026

- (k) These game mixes are then combined to compare with the regulatory benchmark for the Auckland casino. There are more player spaces associated with the combined mix than the regulatory benchmark, but the overall gambling opportunities of the combined mix are significantly lower, as follows.

Game mix	Player spaces	Opportunities
Regulatory benchmark	2,262	68,363
Combined game mix	2,295	63,026

- (l) Below is a table which sets out the game mixes with the greatest number of player spaces and opportunities for each of the four gambling locations specified in Annex D.

Game mix	Player spaces	Opportunities
Salons on the south side of level 5 – game mix A	216	6,372
Salons on the north side of level 5 – game mix A	108	3,186
Pacific VIP Room – game mix D	376	10,593
Rest of the casino – game mix I	1,655	45,731
Total	2,355	65,882

- (m) These game mixes are then combined to compare with the regulatory benchmark for the Auckland casino. There are more player spaces associated with the combined mix than the regulatory benchmark, but the overall gambling opportunities of the combined mix are significantly lower, as follows.

Game mix	Player spaces	Opportunities
Regulatory benchmark	2,262	68,363
Combined game mix	2,355	65,882

- (n) It is satisfied that the game mixes featured in Annex C and Annex D will not increase casino gambling opportunities.

The Secretary's submissions

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

- (a) The calculations presented by SCML are accurate and suggest that the new game mixes associated with Annexes C and D present fewer opportunities compared with the benchmark game mix. However, he notes that the operation of Annex C could lead to 33 more player spaces than the benchmark game mix, while Annex D could have 93 more player spaces.
- (b) In a previous submission to the Commission dated 27 April 2011 relating to a game mix application for the Auckland casino, he submitted that:

It is considered that there may be instances when an increase in player numbers, irrespective of a decrease in calculated opportunities, results in negative 'in the round finding'.

While he does not hold a firm view in this instance, he recommends that the Commission keeps this in mind while deciding on the current application.

- (c) He witnessed the Ultimate Texas Hold'em trials, and agrees with the rate of play ascribed by SCML.

SCML's submissions in reply

6. In reply, SCML submitted as follows:

- (a) The Secretary has no firm view on whether the revised Annex C or new Annex D would increase casino gambling opportunities.
- (b) Annex C includes some additional game mixes but each of these have the same, or in most case less, player spaces than the current Annex C approved by the Commission in decision GC12/11. All of the game mixes in Annex C have considerably fewer calculated opportunities than the regulatory benchmark.
- (c) Annex D provides for the operation of 16 tables in the new VIP area, and 82 tables in other areas. In conjunction with these changes the game mixes for this Annex have been revised. The game mix with the highest number of player spaces has 93 spaces more than the regulatory benchmark, but 2,481 fewer calculated opportunities. The decrease in calculated opportunities more than

offsets the increase in player spaces, but ultimately this is a matter for the Commission to decide.

- (d) Annex D provides for the operation of 13 game mixes on levels 2 and 3 with a range of player spaces and calculated opportunities. In the event the Commission is not satisfied that each of these game mixes is suitable (but others are) it asks the Commission to strike out those particular game mixes which are deemed unsuitable rather than decline the Annex altogether. It proposes to open the new VIP area on level 5 with 16 gaming tables, but could not do so without Annex D which specifically provides for this arrangement. Most of the game mixes in Annex D have a similar number of player spaces as those set out in the existing approved Annex.

Analysis

7. SCML has applied to vary Annex C (to include the game Ultimate Texas Hold'em) and for a new Annex, Annex D, which provides for the deployment of 16 gaming tables in the Pacific VIP Room and 82 gaming tables on the Main Gaming Floor (rather than 18 and 80 tables respectively, as provided by Annex C).
8. The Commission's usual approach in applications of this nature is to compare the proposal with the regulatory benchmark to determine whether, in the round, it offers more opportunities for casino gambling. It does not assess opportunity arithmetically according to the calculations presented as part of the application.
9. Consistent with decisions GC11/11 and GC11/12, the Commission compared the maximum combination of game mixes from Annex C with the regulatory benchmark, and was satisfied that they would not increase opportunities for casino gambling compared to the regulatory benchmark for the Auckland casino. The introduction of Ultimate Texas Hold'em into Annex C would not increase opportunities for casino gambling.
10. The Commission compared the maximum combination of game mixes from Annex D with the regulatory benchmark, and was satisfied that they would not increase opportunities for casino gambling compared to the regulatory benchmark for the Auckland casino.
11. Once SCML is fully reliant on either Annex C or D, Annexes A and B cease to be valid.
12. SCML submitted that it was uncertain whether it will retain 16 or 18 tables in the Pacific VIP Room, so sought approval of Annex D in addition to Annex C. Once SCML has finalised its preference, the Commission would expect one of the Annexes to drop away in future applications of this nature.

Decision

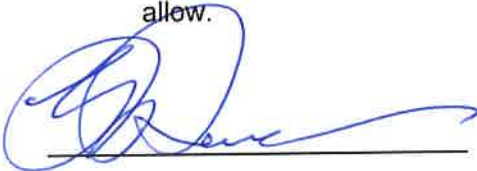
13. The Commission amended licence condition 9 of SCML's operator's licence pursuant to section 139(1)(d) of the Act. Condition 9 now provides as follows:

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. The Licence Holder may operate on casino gaming tables the game types and game mix(es) specified by the Commission either Annex C or Annex D attached to this Licence subject to providing the Commission and the Inspectorate with a minimum of 10 working days notice in writing of its intention to do so. The Licence Holder shall obtain the prior approval of the Commission for any change to the game types and/or game mixes specified.

14. Approved Annexes C and D are **attached**.

Right of appeal

15. 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

18th August 2011



ANNEX C

GAME MIX A

Pursuant to condition 9 the following game mix may be operated by the Licence Holder on casino gaming tables, subject to the following conditions and requirements noted:

Black Jack/Pontoon	44 games
Roulette	24 games
Electronic Roulette	1 game
Caribbean Stud Poker	10 games
Midi Baccarat	17 games
Mini Baccarat	7 games
Pai Gow	4 games
Tai Sai (double side)	1 game
Tai Sai (single side)	1 game
Money Wheel (double side)	1 game

Notes for Game Mix A

1. The Licence Holder is permitted to operate automatic shufflers on 50% of open Black Jack tables, and all Caribbean Stud Poker and Baccarat tables.
2. The Electronic Roulette table comprises up to 14 player spaces and no manual table.

ALTERNATIVE GAME MIXES

Pursuant to condition 9 the following game mixes may be operated by the Licence Holder on casino gaming tables in the locations specified, subject to the following conditions and requirements noted:

In the three gaming salons to the south of the elevators on level 5, any one of the following eight table game mixes:

	A1	B1	C1	D1	E1	F1	G1	H1	I1
Midi Baccarat	8	7	6	7	6	4	5	6	5
Roulette	0	1	2	0	0	2	1	1	2
Black Jack	0	0	0	1	2	2	2	1	1
Total	8	8	8	8	8	8	8	8	8

together with

in the gaming salon to the north of the elevators on level 5, any one of the following four table game mixes:

	A2	B2	C2	D2	E2	F2
Midi Baccarat	4	3	3	2	2	2
Roulette	0	1	0	0	2	1
Black Jack	0	0	1	2	0	1
Total	4	4	4	4	4	4

together with



in the Pacific VIP Room to the north of the elevators on level 5, any one of the following 18 table game mixes:

	A3	B3
Midi Baccarat	9	9
Roulette	3	3
Black Jack	3	3
Pai Gow	1	2
Mini Baccarat	1	0
Caribbean Stud Poker	1	1
Total	18	18

together with

in all Gambling Areas other than the four gaming salons on level 5 and the Pacific VIP Room on level 5, any one of the following 80 table game mixes:

	A4	B4	C4	D4	E4	F4	G4	H4	I4	J4	K4	L4
Money Wheel (double side)	1	1	1	1	1	1	1	1	1	1	1	1
Tai Sai (double side)	1	1	1	1	1	1	1	1	1	1	1	1
Pai Gow	2	2	2	2	2	2	2	2	2	2	2	2
Caribbean Stud Poker	5	5	5	5	5	5	5	5	5	5	5	5
Midi Baccarat	6	6	6	6	6	6	6	6	6	6	6	6
Poker	9	9	9	9	9	9	9	9	9	9	9	9
Rapid Roulette	2	2	2	2	2	2	2	2	2	2	2	2
Mini Baccarat	7	7	8	7	7	8	5	5	6	6	6	7
Roulette	17	16	16	17	16	16	17	16	16	17	16	16
Black Jack	30	31	30	28	29	28	30	31	30	29	30	29
3 Card Poker	0	0	0	2	2	2	2	2	2	2	2	2
Ultimate Texas Hold'em	0	0	0	0	0	0	0	0	0	0	0	0
Total	80	80	80	80	80	80	80	80	80	80	80	80

	M4	N4	O4	P4	Q4
Money Wheel (double side)	1	1	1	1	1
Tai Sai (double side)	1	1	1	1	1
Pai Gow	2	2	2	2	2
Caribbean Stud Poker	4	4	4	4	4
Midi Baccarat	6	6	6	6	6
Poker	9	9	9	9	9
Rapid Roulette	2	2	2	2	2
Mini Baccarat	7	8	7	7	8
Roulette	16	16	17	16	16
Black Jack	31	29	28	29	28
3 Card Poker	0	0	2	2	2
Ultimate Texas Hold'em	1	2	1	1	1
Total	80	80	80	80	80



Notes for the alternative game mixes:

1. The Licence Holder is permitted to change game mixes subject to providing the Inspectorate with prior notification.
2. The Licence Holder is permitted to operate automatic shufflers on each of the Black Jack, Caribbean Stud Poker, Baccarat, Poker, 3-Card Poker and Ultimate Texas Hold'em tables.
3. At least 50% of the total number of Midi Baccarat games shall be conducted in accordance with dealing style B, as set out in the rules of Baccarat.
4. All electronic roulette tables comprise up to 21 player spaces and no manual table.
5. The number of player spaces at poker tables (other than Caribbean Stud Poker and 3-Card Poker) may not exceed 10, even if game rules provide for more.



ANNEX D

GAME MIX A

Pursuant to condition 9 the following game mix may be operated by the Licence Holder on casino gaming tables, subject to the following conditions and requirements noted:

Black Jack/Pontoon	44 games
Roulette	24 games
Electronic Roulette	1 game
Caribbean Stud Poker	10 games
Midi Baccarat	17 games
Mini Baccarat	7 games
Pai Gow	4 games
Tai Sai (double side)	1 game
Tai Sai (single side)	1 game
Money Wheel (double side)	1 game

Notes for Game Mix A

1. The Licence Holder is permitted to operate automatic shufflers on 50% of open Black Jack tables, and all Caribbean Stud Poker and Baccarat tables.
2. The Electronic Roulette table comprises up to 14 player spaces and no manual table.

ALTERNATIVE GAME MIXES

Pursuant to condition 9 the following game mixes may be operated by the Licence Holder on casino gaming tables in the locations specified, subject to the following conditions and requirements noted:

In the three gaming salons to the south of the elevators on level 5, any one of the following eight table game mixes:

	A1	B1	C1	D1	E1	F1	G1	H1	I1
Midi Baccarat	8	7	6	7	6	4	5	6	5
Roulette	0	1	2	0	0	2	1	1	2
Black Jack	0	0	0	1	2	2	2	1	1
Total	8	8	8	8	8	8	8	8	8

together with

in the gaming salon to the north of the elevators on level 5, any one of the following four table game mixes:

	A2	B2	C2	D2	E2	F2
Midi Baccarat	4	3	3	2	2	2
Roulette	0	1	0	0	2	1
Black Jack	0	0	1	2	0	1
Total	4	4	4	4	4	4

together with



in the Pacific VIP Room to the north of the elevators on level 5, any one of the following 16 table game mixes:

	A3	B3	C3	D3	E3	F3	G3
Midi Baccarat	9	9	9	9	9	8	8
Roulette	3	2	2	2	2	3	3
Black Jack	3	3	2	3	4	3	2
Pai Gow	0	1	1	0	0	1	1
Mini Baccarat	0	0	1	1	0	0	1
Caribbean Stud Poker	1	1	1	1	1	1	1
Total	16	16	16	16	16	16	16

together with

in all Gambling Areas other than the four gaming salons on level 5 and the Pacific VIP Room on level 5, any one of the following 82 table game mixes:

	A4	B4	C4	D4	E4	F4	G4	H4	I4	J4	K4	L4	M4
Money Wheel (double side)	1	1	1	1	1	1	1	1	1	1	1	1	1
Tai Sai (double side)	1	1	1	1	1	1	1	1	1	1	1	1	1
Pai Gow	2	2	2	2	2	2	2	2	2	2	2	2	2
Caribbean Stud Poker	5	4	5	5	4	5	5	5	4	4	4	4	4
Midi Baccarat	6	6	6	6	6	6	6	6	10	10	10	10	10
Poker	9	9	9	7	7	7	7	7	7	9	9	9	7
Rapid Roulette	2	2	2	2	2	2	2	2	1	1	1	1	1
Mini Baccarat	7	7	6	7	7	6	7	6	4	4	4	4	4
Roulette	17	17	17	17	17	17	17	17	15	15	15	15	15
Black Jack	29	29	30	31	31	32	32	33	37	35	32	31	34
3 Card Poker	2	2	2	2	2	2	1	1	0	0	2	2	2
Ultimate Texas Hold'em	1	2	1	1	2	1	1	1	0	0	1	2	1
Total	82	82	82	82	82	82	82	82	82	82	82	82	82

Notes for the alternative game mixes:

1. The Licence Holder is permitted to change game mixes subject to providing the Inspectorate with prior notification.
2. The Licence Holder is permitted to operate automatic shufflers on each of the Black Jack, Caribbean Stud Poker, Baccarat, Poker, 3-Card Poker and Ultimate Texas Hold'em tables.
3. At least 50% of the total number of Midi Baccarat games shall be conducted in accordance with dealing style B, as set out in the rules of Baccarat.
4. All electronic roulette tables comprise up to 21 player spaces and no manual table.
5. The number of player spaces at poker tables (other than Caribbean Stud Poker and 3-Card Poker) may not exceed 10, even if game rules provide for more.

