

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY AUCKLAND LIMITED** for approval of construction and design changes and to redesignate the Gambling Area at 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: 28 June 2013

Date of Decision: 9 August 2013

Date of Notification
of Decision: *gbr* August 2013

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
FOR APPROVAL OF CONSTRUCTION AND DESIGN CHANGES
AND TO REDESIGNATE THE GAMBLING AREA AT THE AUCKLAND CASINO**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission:
 - (a) for approval of construction and design changes to the Auckland casino, under conditions 6 and 7 of SCAL's venue licence;
 - (b) to redesignate the Gambling Area at the Auckland casino, under condition 9 of SCAL's venue licence and section 139 of the Gambling Act 2003 (the "**Act**"); and
 - (c) to vary conditions 9 and 9A of SCAL's venue licence, pursuant to section 139 of the Act, to incorporate the redesignated Gambling Area.
2. The Commission consulted with the Secretary for Internal Affairs ("the **Secretary**"), Problem Gambling Foundation ("**PGF**") and Salvation Army. It received submissions from the Secretary and PGF.

Act and licence conditions

3. The relevant section of the Act is 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 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).

4. The relevant licence conditions, with the proposed variations to conditions 9 and 9A shown in mark-up, are as follows:

SCAL's venue licence

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms and the back of house areas used by staff (unless construction or design changes to any of these excluded areas may impact on matters set out in condition 7 in which case prior approval must be sought);
 - (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 any building, road or structure within the block of land bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, including the Casino Venue, Sky Tower, car park, bus terminal and walkways between the casino and the Sky Tower and the convention centre.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area (paragraph (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 any building, road or structure within the casino block (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 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms and the back of house areas used by staff. 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.

8. The Licence Holder shall ensure that:

- (a) gambling activity is not visible from outside the Casino Venue; and
- (b) there is provision for generation of emergency power to maintain in situations of an interruption to mains power:
 - (i) minimum services to the Gambling Area; and
 - (ii) lighting in highly sensitive areas such as count rooms, surveillance suite, cashiering locations and gambling equipment storerooms.

9. The current Gambling Area for the casino venue is delineated in the plan attached as Schedule 1 to these conditions. A first alternative Gambling Area is delineated in the plan attached as Schedule 2. A second alternative Gambling Area is delineated in the plan attached as Schedule 3. A third alternative Gambling Area is delineated in the plan attached as Schedule 4. A fourth alternative Gambling Area is delineated in the plan attached as Schedule 5. A fifth alternative Gambling Area is delineated in the plan attached as Schedule 6. ~~A sixth alternative Gambling Area is delineated in the plan attached as Schedule 7. A seventh alternative Gambling Area is delineated in the plan attached as Schedule 7A. A eighth alternative Gambling Area is delineated in the plan attached as Schedule 8.~~

9A. A change of Gambling Area will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days prior notice in writing of its intention to adopt one of the approved Gambling Areas referred to in Condition 9 and shown in Schedules 1, 2, 3, 4 5, and 6, 7, 7A and 8.

SCAL's submissions

5. SCAL submitted, in summary, as follows:

- (a) In decision GC06/13 the Commission approved the redesignation of the Jade Dragon restaurant as an alternative gambling area as part of a wider proposal to convert this facility into a VIP gambling area. The redevelopment of this area has yet to commence.

- (b) It is now proposing some design changes to this area which involve the construction of an outdoor gambling area on the western side of the location. The construction of this outdoor gambling area would follow the same design as that used for the outdoor gambling area adjacent to the Diamond Room, and the smoking deck that was converted to an outdoor gambling area on level 2. The design features the installation of glass fins which will conform to the requirements of an 'open area' as set out in the smoke-free environments legislation.
- (c) The area in question is part of the casino venue and would add approximately 74m² to the total gambling area.
- (d) The proposed construction and design changes require the Commission's approval under conditions 6 and 7 of SCAL's venue licence. Under condition 7, SCAL is required to provide an assessment on the matters specified in that condition, as follows:
- (i) *Integrity and fairness of games* - the conduct of gaming in an outdoor area has no impact on the integrity and fairness of games, which will be subject to the same rules and requirements as those operating in the indoor areas of the casino.
 - (ii) *Security and surveillance* - the games located outdoors will be subject to the same security and surveillance requirements as those operating indoors and there will be no adverse impact on the effectiveness of security and surveillance.
 - (iii) *Harm prevention and minimisation* - the proposed design changes would enable gaming products to be played in areas where smoking is permitted. The Commission considered this issue in decisions GC15/11 and GC05/13, and took the view that the proposal would not increase the potential for harm for the reasons set out in those decisions.

The outdoor gambling area in the Diamond Room opened in October 2011. Reports from staff suggest that this area has not led to an increased level of observed indicators of customers who may be experiencing harm. No customers have been identified who have sought self-exclusion or been excluded for problem gambling as a consequence of their gambling in this area.



Nonetheless, SKYCITY has revised its Host Responsibility Programme in recognition of the development of outdoor gambling areas. The HRP now provides that information on problem gambling and responsible gambling will be displayed and made available to customers in such areas.

Prior to the introduction of the smoke-free legislation, a number of patrons chose to smoke while gambling, and the experience with the Diamond Room outdoor gambling area suggests that there is still demand to combine both activities. As noted in decision GC15/11, the smoke-free legislation recognises the possibility of combining such activities.

It does not believe that the proposed introduction of further facilities will in any way undermine efforts to prevent and minimise harm caused by gambling. It will continue to be vigilant of customers using such facilities.

The outdoor gambling area adjacent to the MGF on level 2 has only been open for a short time but to date, there have not been any adverse issues arising from its operation. The outdoor gambling area on level 6 has not yet been constructed.

While the floor layout for the new area in question has yet to be finalised, it expects to place approximately 22 gaming machines in this location. Patrons playing these machines would be subject to scrutiny from surveillance staff and from other roving staff members in the same manner as those playing gaming machines in the current outdoor gaming areas, and in indoor areas of the casino. It is satisfied that the design changes will not contribute to the onset of harm or exacerbate risk, and will not adversely impact SCML's efforts to provide a safe gambling environment and facilitate effective host responsibility.

Further consideration will be given to this once final decisions are made on the deployment of product in the event that this application is approved.

- (iv) *Potential access to the gambling area by minors* - the only access to the outdoor area will be via existing gambling areas, so the proposed design changes have no adverse impact on the potential for access by minors.
- (v) *Compliance by any person with the Act, including section 11* – the design changes have no relevance to section 11 as SCAL is not proposing to increase the number of machines or tables, or create potential for more



persons to play gambling products by virtue of the expanded floor area. If necessary, this matter will be considered further when SCML seeks approval of new floor plans.

- (e) It currently has 9 approved alternative gambling areas, labelled 1, 2, 3, 4, 5, 6, 7, 7A and 8. Schedules 1, 2, and 3 are now redundant and, subject to approval of this application, schedule 8 will also be redundant. A new schedule (following schedule 5) is required and schedules 6, 7 and 7A require amendments to incorporate the new gambling area. To give effect to these changes, the schedules have been relabelled so they follow a natural sequence. It therefore seeks approval for Schedules 1 (currently 4), 2 (currently 5), 3 (new), 4 (currently 6), 5 (currently 7) and 6 (currently 7A). It wants to amend conditions 9 and 9A to reflect these amendments.

PGF's submissions

6. PGF submitted, in summary, as follows:

- (a) The proposal involves constructing a gambling area in an area surrounding the Jade Dragon restaurant. SCML claims that this will be an outdoor gambling area, but the only way in which this area will have access to the outdoors is via glass fins similar to those installed in the Diamond Room's gambling area. The classification of the Diamond Room area as "outdoor" is contrary to the purposes and relevant sections of the Smoke Free Environments Act. This is currently subject to a judicial review beginning on 7 August 2013. In these circumstances, it would be inappropriate, and potentially contrary to the law, to approve the Jade Dragon area until a final judicial ruling has been made on the Diamond Room issue.
- (b) In view of the very real likelihood that this application is non-compliant, it requests that the application be declined.
- (c) Alternatively, it requests the Commission to defer its consideration until a final decision has been made on the Diamond Room judicial review. It would be inappropriate to allow SKYCITY to make a considerable investment in constructing this new gambling area if it too would be likely to be found to be non-compliant and contrary to the Smoke Free Environments Act.

The Secretary's submissions

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

(a) It appears as if the proposed balcony will extend out over an existing footpath, and that it is located very close to, and perhaps within, the bus bay.

(b) The casino premises licence defines the address and description of the casino premises as being:

All of the land and buildings bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, Auckland, New Zealand ... excluding the underground car park, the bus terminal, the Sky Tower and the walkway between the Sky Tower and the casino complex.

(c) From the information available, it is arguable that the proposed balcony would be located within the bus terminal. If the Commission considers this to be the case, he would not support an extension into this location which is explicitly excluded in the casino premises licence.

SCAL's submissions in reply

8. In response to PGF's submissions, it noted as follows:

(a) PGF claims that the development is contrary to the Smoke Free Environments Act. A similar facility adjoining the Diamond Room has been the subject of complaints alleging that it does not satisfy the requirements of that legislation. None of those complaints have been upheld by the agency responsible for policing the smoke-free legislation and SCAL is satisfied that the proposed development is compliant.

(b) The Diamond Room smoking area is the subject of a judicial review, but there is no reason to decline or defer any decision in relation to the current application. Neither the law nor the manner in which it is being interpreted has changed.

(c) Any investment in the construction of the new area is at SCAL's risk. If the law is changed or applied in a manner which did not accommodate the new area as an open area for the purposes of the legislation, then it would be obliged to make whatever changes were necessary to satisfy the new requirements. That might range from design modifications to closure of the affected areas.

9. In response to the Secretary's submissions, it noted as follows:

(a) The Secretary's submissions raise an issue that it did not address in its application; namely whether the outdoor gambling area extends into the bus terminal or whether it is within the casino venue. The casino venue licence excludes the bus terminal from the description of the casino venue. The Secretary opposes the application on the basis that the proposed outdoor

gambling area appears to be located within the bus terminal, which is explicitly excluded from the description of the casino venue.

- (b) To assess the merits of the Secretary's argument requires an understanding of what constitutes the "bus terminal" for the purposes of the venue licence. SCAL attached to its submission a memorandum of encumbrance dated 11 February 1994. Pursuant to the memorandum, SKYCITY covenanted with the (Auckland) Council to maintain and operate two "public facilities"; namely a "public carpark" and a "public transport terminal" (which is the bus terminal) on the land described.
- (c) These two public facilities are further defined in the Second Schedule of the Memorandum. The "transport depot" (bus terminal) is defined as "the public transport terminal on the ground level (or elsewhere as agreed to by the Council and the Encumbrancer) of the land of not less than 2,000 square metres, forming part of the Public Facilities."
- (d) The transport depot is only operated on the ground level. Appendix 3 to its submissions contains a plan showing this ground level location. The area of the terminal facilities under the proposed outdoor gambling area constitutes the 2,000 square metres.
- (e) Clause 4.3 of the memorandum specifies in more detail the particular facilities that must be provided on the ground level as comprising the transport depot. As set out in that section, the required facilities are:
- traffic lanes for buses to stand during collection and depositing of passengers and adjacent safe standing areas for passengers to board and alight from buses;
 - office and counter areas for bus operators and their agents;
 - tourist information facilities;
 - passenger waiting rooms, rest rooms and toilet facilities;
 - public address and signage systems; and
 - areas for buses to stand temporarily prior to loading passengers and waiting between trips, but not for extended periods of parking.
- (f) The proposed outdoor gambling area does not impact the area, configuration or facilities provided at ground level. The balcony space provides 2.5 metres minimum height clearance over the existing footpath and is clear of the bus traffic lanes and bus standing areas.



- (g) Its view is that the proposed outdoor gambling area forms an extension to its existing building within the block of land bounded by the streets specified in the venue licence. In this sense, it forms part of the casino venue (and does not form part of the bus terminal) for the purposes of the licence.
- (h) The exclusion of the bus terminal from the definition of the casino venue arose out of the decision of the *High Court in Auckland Casino Limited v Casino Control Authority*. The applicant brought a judicial review proceeding challenging the validity of the Auckland casino premises licence granted to SKYCITY by the Casino Control Authority ("CCA"). The proceeding was unsuccessful. One of the applicant's grounds of challenge was that the CCA's definition of the premises (comprising the entire block, excluding the Sky Tower and Walkway) was too expansive and that the licence was therefore *ultra vires*. The Court agreed that the definition should also exclude the bus station and carpark, but refused to invalidate the licence.
- (i) The High Court judgment lends support to its submission that the proposed new gambling area forms part of the casino venue, and is not within the excluded area. In particular:
- (i) The casino venue was defined in the grant as all of the land bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, with a full legal description of the entire city block, excluding the Sky Tower and the Walkway between the Sky Tower and the casino complex. The Court added the bus terminal and the underground carpark to the list of exclusions, but did not carve out from the legal description, the land occupied by any of those facilities. The legal description of the casino venue still encompasses the entire block. The bus terminal comprises a *facility* only, located on that land. It does not comprise a separate parcel of land or site (or the air space above a separate parcel of land or site). The casino venue is therefore all the land and buildings and air space over the entire site less only the areas occupied by the excluded facilities.
- (ii) The bus terminal "facility" is limited as described in the memorandum. It is confined to the specified ground level facilities. The proposed new area will not encroach on or interfere with those ground level facilities. Pedestrians can pass underneath and the balcony is clear of the bus lanes and bus standing areas.



- (iii) The High Court decided to amend the exclusion provision to add the bus terminal and carpark because it considered that there was no justification for the powers which may be exercised under a premises licence being available either in a carpark (available not only to users of the casino but to the public generally) or in a public bus terminal. Nor, the Court said, was there any justification for the restrictions which apply in casino premises (for example, the exclusion of underage persons) having application in such public areas. Had those facilities instead been gambling facilities, they would not have been excluded. The Court's reasons would clearly not be frustrated in any way by the proposed construction of the outdoor gambling area. Further, the Court's purpose in excluding the bus terminal is directly relevant to the correct interpretation of the scope of the excluded area.
- (j) The Gambling Commission has previously granted it approval to add extensions to its buildings within the block of the land bounded by the streets specified in its licence. In decision GC25/10, the Commission acknowledged the width of the casino venue definition and agreed that the proposed gambling area on the new level 6 (to be constructed above the existing casino complex) was within the area as defined. There is no reason to treat this application any differently.

Analysis

10. SCAL has sought Commission approval to construct a new balcony on which patrons can both smoke and gamble. The balcony is proposed for level 1, to the west of the area currently occupied by the Jade Dragon restaurant. The Commission has previously approved the Jade Dragon restaurant area as forming part of an alternative gambling area at the Auckland casino.
11. In his submissions, the Secretary raised an issue that was not addressed in detail by SCAL in its application; namely the location of the proposed smoking balcony and whether it falls within the "casino venue", as defined by the venue licence, or whether it falls within the bus terminal, which is specifically excluded from that definition. The venue licence for the Auckland casino defines the casino premises as follows:
- All of the land and buildings bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, Auckland, New Zealand ... excluding the underground car park, the bus terminal, the Sky Tower and the walkway between the Sky Tower and the casino complex.
12. This definition followed an application for judicial review of the CCA's decision to grant a "casino premises" licence to Sky Tower Casino Limited. In *Auckland Casino Ltd v Casino Control Authority*, High Court, Auckland, M81/94, 13 July 1994, Robertson J, the applicant

for review took issue, inter alia, with the defined casino premises in the proposed licence because it incorporated carparking, restaurant and hotel facilities with the defined casino premises which minors could not legally enter. After setting out the definition of "casino premises", the Court continued:

I accept the respondents' submission that the "casino premises" are different to the "gaming area". The latter is defined as:

"the area of the casino designated by the Authority as the area in which gaming is to be conducted"

The "casino premises" will include the "gaming area" but will not be restricted to it.

I am satisfied that within the scheme of the Act there will be an area which is greater than the gaming area over which it is appropriate that there will be additional control and in respect of which inspectorate functions can be carried out. However in the circumstances of this grant I am satisfied that they should not extend to the entire building or across the whole city block.

The problem which arises in practical terms in this case is that within the block which is bounded by Hobson, Wellesley West, Federal and Victoria Streets, includes a car park (which is to be available not only for users of the casino but for the public generally) and a public bus station.

There is no justification for the powers which may exercised under a casino premises licence being available in either of those places. Nor is there any justification for the restrictions which apply in casino premises licence (for example, the exclusion of under-age persons) having application in those areas.

13. The Court accordingly directed the amendment of premises originally defined by the CCA by excluding from the casino premises the underground car park and bus terminal as set out in paragraph 11 above.
14. The issue identified by the Secretary arises because the Commission has previously held that it has no power to expand a casino beyond the premises as defined in the licence. In decision GC05/09; an application by Dunedin casino to construct a restaurant and bar facility attached to the casino. the Commission noted as follows:
 16. The Commission first considered whether it has the power to amend a casino venue licence to alter the premises as defined in that licence. DCL's venue licence, as issued by the CCA, identifies the name and address of the licence holder, sets out the term of the licence, identifies the physical premises of the casino and states that the licence is subject to conditions. The physical location of the casino is described in the licence itself (rather than in the conditions) and is identified in plans in the first schedule to the licence.
 17. Whether or not a statutory body such as the Commission has the power to amend a licence, the conditions to the licence, or both, depends on the terms of the empowering enactment. In the present case, the Gambling Act 2003 confers on the Commission, at section 139, the power to specify, vary or revoke licence conditions in the casino venue and casino operator's licences. There is no express power in the Act for the Commission to amend the licences themselves. In the absence of an express power to vary licences, no such power can be implied.

18. The Commission may have the ability to amend minor details on the licence, but the physical location of the casino is a fundamental matter going to the grant of the licence, which the Commission has no power to amend.
 19. This view is supported by the existence of express powers in the Act to transfer licences by way of mortgage, charge, or other encumbrance, and the express prohibition on otherwise transferring casino licences (see sections 126 and 127 of the Act). The explicit setting out of such powers in the Act suggests that the omission to set out powers to amend casino licences was deliberate.
 20. As the casino must be exclusively within the area specified in the casino venue licence, the Commission considers that the casino premises cannot be relocated from, or expanded beyond, the premises defined in the licence. None of the submitters advanced a different view, although DCL reserved its right to do so before the Courts if necessary.
15. In decision GC25/10, the Commission restated these conclusions in the context of an application relating to the vertical expansion of the Auckland casino, with new gambling facilities on Level 5 and integrated facilities on Level 6.
 16. In response to the issue raised by the Secretary, SCAL acknowledged that the bus terminal is excluded from the defined casino venue, but argued that the proposed balcony is outside the bus terminal for the following reasons:
 - (a) The High Court's exclusion of the bus terminal from the land within the city block did not carve out any land from the legal description; what was carved out was a facility, not a parcel of land.
 - (b) The facility is confined to specified ground level facilities. The extension will not encroach on the bus terminal in the sense that it will not prevent the terminal from being used by pedestrians and buses.
 - (c) The High Court excluded the bus terminal as there was no justification for its inclusion in a casino venue, and the exclusion was to ensure that the public facilities were not subject to the exclusions and restrictions that would apply to a casino venue.
 - (d) The position is no different to that in decision GC25/10, which allowed new facilities to be built above the existing facilities within the same street boundary envelope.
 17. The Commission concurs with the points made, except the last one. In the Commission's view the proposed balcony would be constructed within the bus terminal and therefore outside the casino venue, as defined by the licence. For the following reasons, the position is different to that in decision GC25/10:
 - (a) SCAL is correct in its submission that the land occupied by the bus facility was not excluded by the High Court, rather the facility was, and that the facility is confined



to the ground level. As such, the Commission does not consider there to be any issue with gambling facilities being built and designated above the ground level facility (as per decision G25/10).

- (b) SCAL is also correct that it was the facility that was excluded, and for the reason that no part of the bus terminal facility should be subject to the restrictions which apply to a casino venue, such as age restrictions.
 - (c) However the facility that was excluded is the actual facility as built, not a smaller facility, even if the intended functions of the facility could take place within a smaller volume. The photographs provided to the Commission make it clear that the proposed balcony would extend into the present bus terminal facility, thereby transferring part of that facility to the casino venue.
18. Finally, the Commission notes that current premises definition is the result of a modification made by the High Court, with the consent of the then successful licence applicant. Neither the licence, nor anything in the decision modifying it, refers to reducing or reconfiguring the facility excluded from the defined premises by the licence. In fact, the facility, once built, is as built with no provision for alteration without the prior written consent of the (Auckland) Council. Clause 3.1 of the Second Schedule of the Memorandum of Encumbrance provides as follows:

No Alterations

Following completion of construction of the Public Facilities no alteration may be carried out to the structure of the Public Facilities or the configuration of the carpark and the Transport Depot without the prior written consent of the Council.

Absent clear words in the licence providing for future reconfiguration of the premises boundary, the Commission is unwilling to interpret the licence to allow for such reconfiguration.

19. As the Commission has held that the balcony extension would not be within the defined casino premises, the application is declined. The Commission would not have upheld the other objection to the application.
20. All previous decisions of the Commission dealing with smoking facilities have assumed that compliance with the smoke-free legislation is a matter for the applicant. The Commission approves the construction and design of facilities on the basis that the operator must meet regulatory obligations that are overseen by other bodies. It is not a function of the Commission to determine whether any part of casino premises is an internal area or an open area in making its decisions. As SCAL says, the Commission's approvals under the Gambling Act do not address compliance with other non-gambling

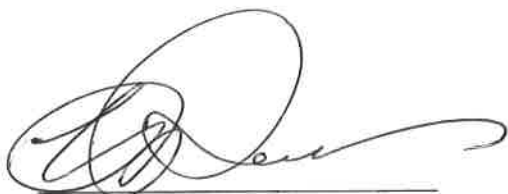
obligations and, to use the facility as intended, the operator will need to satisfy those other requirements while meeting those imposed by the gambling legislation and the relevant licences. The judicial review proceeding does not provide a good reason to decline or delay hearing the application.

Decision

21. The Commission declined to approve SCAL's application for approval of construction and design changes to the casino, under conditions 6 and 7 of SCAL's venue licence.

Right of appeal

22. 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

26th August 2013

