

**IN THE MATTER** of the Gambling Act 2003

**AND** on a proposal by the Gambling Commission to vary the bank account licence conditions attached to the venue and operator's licences for all six casinos

**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 Proposal: 19 March 2015

Date of Decisions: 10 July 2015, 7 August 2015, 11 September 2015

Date of Notification of Decision: 17<sup>th</sup> December 2015

**DECISION ON A PROPOSAL BY THE GAMBLING COMMISSION  
TO VARY THE BANK ACCOUNT LICENCE CONDITIONS ATTACHED  
TO THE VENUE AND OPERATOR'S LICENCES FOR ALL SIX CASINOS**

**Introduction**

1. The Gambling Commission proposed, on its own initiative, under section 139(1)(e) of the Gambling Act 2003 (the "**Act**"), to vary the bank account licence conditions attached to the venue and operator licences for all six New Zealand casinos. The proposal followed Commission decision GC14/14, a decision on applications by SKYCITY Casino Management Limited, where the Commission noted that the bank account licence conditions for each casino were not consistent and should be amended. As the Commission indicated it would do in the decision, it proposed to remedy the inconsistency on its own initiative.

**Licence conditions**

2. The bank account licence conditions for each casino, with the initial variations proposed shown in mark-up, are as follows:

## Auckland casino bank account licence conditions

### Venue licence

22. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Operator's licence

36. The Licence Holder shall keep and maintain at least one New Zealand a bank account or bank accounts as approved by the Commission at a bank or banks in New Zealand for use for all banking transactions relating to the operation of the Casino. Full details of all such bank account(s) shall be provided to the Commission. They may be opened and held in the name of SKYCITY Auckland Limited but must be operated solely by the Licence Holder. All such The bank account(s) shall be used exclusively for the operation of the Casino.
37. The Licence Holder shall not open or use any bank account ~~overseas~~ to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

## Hamilton casino bank account licence conditions

### Venue licence

22. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Operator's licence

38. The Licence Holder shall keep and maintain at least one New Zealand bank account approved by the Commission for banking transactions relating to the operation of the Casino. Full details of all such bank account(s) shall be provided to the Commission. They may be opened and held in the name of SKYCITY Hamilton Limited but must be operated solely by the Licence Holder. All such bank account(s) shall be used exclusively for the operation of the Casino.
398. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

## Christchurch casino bank account licence conditions

### Venue licence

20. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Operator's licence

37. The Licence Holder shall keep and maintain at least one New Zealand bank account approved by the Commission for banking transactions relating to the operation of the Casino. Full details of all such bank account(s) shall be provided to the Commission. All such bank account(s) shall be used exclusively for the operation of the Casino.
387. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

## Dunedin casino bank account licence conditions

### Venue licence

22. The Licence Holder shall keep and maintain at least one New Zealand bank account approved by the Commission for banking transactions relating to the operation of the Casino. Full details of all such bank account(s) shall be provided to the Commission. All such bank account(s) shall be used exclusively for the operation of the Casino.
232. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Operator's licence

38. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission and must use only the bank account(s) approved by the Commission under the Venue Licence in connection with the operation of the Casino.

## Queenstown casino bank account licence conditions

### Venue licence

23. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Operator's licence

38. The Licence Holder shall keep and maintain at least one New Zealand bank account approved by the Commission for banking transactions relating to the operation of the Casino. Full details of all such bank account(s) shall be provided to the Commission. They may be opened and held in the name of Queenstown Casinos Limited but must be operated solely by the Licence Holder. All such bank account(s) shall be used exclusively for the operation of the Casino.
398. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

## Wharf casino bank account licence conditions

### Venue licence

21. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Operator's licence

36. The Licence Holder shall keep and maintain at least one New Zealand bank account approved by the Commission for banking transactions relating to the operation of the Casino. Full details of all such bank account(s) shall be provided to the Commission. They may be opened and held in the name of Otago Casinos Limited but must be operated solely by the Licence Holder. All such bank account(s) shall be used exclusively for the operation of the Casino.



376. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### Procedure followed by the Commission

3. The Commission is required, under section 140 of the Act, to notify the Licence Holders, the Secretary for Internal Affairs (the "**Secretary**") and other potentially affected persons of any proposed changes to licence conditions. Notification must include the reason for the proposed changes, together with the procedure to be followed before the Commission makes a decision on the proposal.
4. No other potentially affected parties were identified so, by letter dated 19 March 2015, the Commission notified the Secretary, SKYCITY (on behalf of all four SKYCITY casinos: Auckland, Hamilton, Queenstown and Wharf casinos), Christchurch casino ("**CCL**") and Dunedin casino of its proposal, the reasons for the proposal and the procedure that the Commission would follow. The proposal letter set out the background, the reasons and the procedure in detail as follows:
  2. In decision GC14/14, the Commission considered two applications by SKYCITY Auckland Limited ("**SCAL**") and SCML (together the "**Applicants**"). The first application, for approval to open a bank account in Australia, was granted.
  3. The second application sought to delete condition 36 of SCML's operator's licence for the Auckland casino and to vary condition 37 of SCML's operator's licence for the Auckland casino (by deleting the word "overseas"). The Applicants sought the amendments on the basis that it would better align SCML's bank account licence conditions with those then in place in SCAL's venue licence and with those in place at the other five casinos, and align the licence conditions with the banking requirements of the approved casino management agreement between SCAL and SCML.
  4. The background to the Commission's current proposal can be found in decision GC14/14, where the Commission set out the history of the Auckland casino banking conditions and the position as it then understood it to be at Auckland and elsewhere, as follows:
    8. In the course of its consideration of the application, the Commission reviewed its earlier final decision resulting from its general review of the licence conditions of both the venue and operator's licences at the Auckland casino, decision GC08/06 (that separately amended the bank account licence conditions attached to SCAL's venue licence), and the subsequent decisions in which the Commission reviewed the conditions of both the venue and operators' licences at each of the five non-Auckland casinos.
    9. Decision GC08/06 was made following the general review of licence conditions for the Auckland casino. In its Final Decision on this general review, the Commission observed that SCAL's submissions regarding variations to the bank account licence conditions for the Auckland

casino had apparent merit. SCAL had submitted that banking arrangements approved by the Casino Control Authority ("CCA") in the Management Agreement between SCAL and SCML were in conflict with condition 22. Further, SCAL advised that it did not maintain a bank account for banking transactions relating to the operation of the casino. Rather, pursuant to the abovementioned Management Agreement, all transactions relating to the operation of the casino were banked into an account kept and maintained by SCML. SCAL submitted that licence conditions should accurately reflect current, approved, circumstances.

10. Although it noted that SCAL's submissions had merit, the Commission recorded that it was prevented from making the amendments suggested in the Final Decision because of section 140 of the Gambling Act 2003 (the "Act") which required all parties to be notified of proposed changes to licence conditions before they were approved. It indicated that, rather than further delay the Final Decision it would address those matters in a subsequent decision which would follow notification of a proposal by the Commission.
11. The Commission then notified parties of a proposal to amend SCAL's venue licence by deleting condition 22 and amending condition 23, by deletion of the word "overseas". Conditions 22 and 23 of SCAL's venue licence were identical to conditions 36 and 37 of SCML's operator's licence which the Commission did not propose to change. The Commission's notified proposal was based upon the submissions made by SCAL in the Auckland general review.
12. In submissions on the proposal, SCAL supported the proposed amendments, while the Secretary had no objection, submitting "that the amended condition 23, together with licence conditions 36 and 37 of SCML's operator's licence, would provide an adequate basis for regulatory oversight of bank accounts relating to the operation of the Auckland casino." In decision GC08/06, the Commission approved the proposed amendments to conditions 22 and 23 of the SCAL venue licence.
13. Subsequent to decision GC08/06, the Commission continued with its review of licence conditions for the other five casinos. In all five reviews, the bank account licence conditions for the venue licences were amended to be identical to SCAL's licence condition. That is, the equivalent of licence condition 22 was revoked and the equivalent of licence condition 23 was varied to delete the word "overseas". In addition, and for reasons which are not now apparent, similar changes were made as well to the operators' licences for the other casinos. That is, the equivalent of licence condition 36 was revoked and the equivalent of licence condition 37 was varied to delete the word "overseas" (although no such changes had been made to



SCML's Auckland casino conditions). The consequence of these amendments was that the requirement for each casino to "keep and maintain a bank account or bank accounts as approved by the Commission at a bank or banks in New Zealand for use for all banking transactions relating to the operation of the casino" was removed from licence conditions for all of the non-Auckland casinos.

14. With the benefit of hindsight, the revocations of this requirement for the non-Auckland licence conditions should not have been made because it is important that each casino has a licence condition requirement to keep and maintain a New Zealand bank account for use for all banking transactions for the casino. In Auckland, after decision GC08/06, that requirement was found in condition 36 of SCML's Auckland casino conditions.
15. SCML's current application is to revoke condition 36 of the conditions attached to its operator's licence for the Auckland casino in order to be consistent with other operators' licence conditions, but the Commission's view is that the requirements reflected in condition 36 of SCML's Auckland casino conditions should in fact be retained, and that it is the conditions attached to the other casino licences that should be amended to align with Auckland's. As submitted by the Secretary in decision GC08/06, appropriate regulatory oversight of the bank accounts was intended to be provided by the amended venue licence condition, **together with** the two conditions attached to the operator's licence.
16. In the course of reviewing the submissions on this application and the submissions made on the earlier decisions discussed above, it also became clear to the Commission that there was a further issue with the licence conditions and their consistency with the approved Management Agreement. As is recorded in paragraph 9 above, SCAL informed the Commission that the bank account approved for the exclusive use of all banking transactions for the Auckland casino was an SCML bank account, not a SCAL bank account. As a result, the requirement, in the former condition 22, for SCAL to keep and maintain a bank account for all casino banking transactions was deleted from SCAL's venue licence and retained in SCML Auckland's licence conditions (as condition 36). However, the true position appears to be that the bank account is in SCAL's name, although the account is operated and controlled by SCML. This is what is provided for in the Management Agreement between SCML and SCAL.
17. The current banking arrangements were approved when the CCA approved the Management Agreement and there is no reason to doubt that they remain appropriate. In those circumstances, the Commission's primary concern is to ensure that the licence conditions



reflect the actual approved arrangements. The current licence conditions do not do so accurately, nor do those proposed by the Applicants in the current application.

5. Having recorded its view that, with the benefit of hindsight and subsequent information, changes that it had made to other licences, following the changes made in the Auckland review, were inadvisable, the Commission declined to amend the Auckland licence conditions in order to make them conform to the conditions at other casinos. The Commission decided that the requirements reflected in condition 36 of SCML's Auckland casino conditions should in fact be retained and that it should review the banking conditions for all casinos and, to the extent necessary, propose on its own initiative, under section 139(1)(e) of the Act, appropriate amendments to the venue and operator licences to reflect accurately the approved banking arrangements and to provide the Commission with the necessary level of oversight of banking arrangements.
6. In the Commission's view, each casino should be required to keep and maintain an approved New Zealand bank account for all banking transactions related to the operation of the casino. The opening or use of any additional accounts for the operation of the casino, whether in New Zealand or overseas, should require Commission approval and the proper location for all such requirements is the casino operator's licence.
7. Subsequently, to inform its proposal, the Commission reviewed the current banking licence conditions and approved casino management agreements at each casino and made inquiries of each casino regarding its current banking arrangements.
8. Both licences for the Christchurch casino are held by the same legal entity. As a result, there is no casino management agreement and no issue about who does or should hold or control the approved casino bank account. The Commission's proposal is to vary the licence conditions attached to both the venue and operator's licences to require the holder of the operator's licence to keep and maintain an approved bank account for use for all casino-related banking transactions.
9. In the case of the four SKYCITY operated casinos (Auckland, Hamilton, Queenstown and Wharf), the Commission has ascertained that, as result of the terms of the approved casino management agreements, each operating casino bank account is in the name of the venue licence holder but is controlled and operated exclusively by the holder of the operator's licence, SCML. It is not ideal for a party other than the licensed operator to own the operating bank account, a view which the conflicting information and resulting confusion relating to the Auckland position demonstrates. However, the Commission sees no reason to change the current banking arrangements, which were the subject of earlier approvals, so long as the position is clarified and the licences reflect the true position. The result is that it proposes that SCML must keep, maintain and use all approved accounts but includes an express provision that each account may be in the name of the venue licence holder (as, it understands, is currently the case).
10. At the Dunedin casino, the Commission understands that the sole approved bank account is both held in the name of and controlled by the venue licence holder, not the licensed operator. While not ideal, to reflect the current circumstances, it proposes to keep the bank account requirement in the venue licence and to insert a requirement in the casino operator's licence that the operator must use that approved bank account only.
11. The Commission's proposal would result in the restoration of the obligation that each casino keep and maintain an approved New Zealand bank account for all casino transactions, a requirement which was removed in the course of the licence reviews from 2005.

12. The Commission also proposes the deletion of the word "overseas" from condition 37 of SCML's operator's licence for the Auckland casino. The proposed amendment would align condition 37 with the licence conditions attached to the operator's licence for the other casinos, thereby making clear that the Commission must approve all bank accounts used in the operation of a casino, irrespective of the account's location.

#### The Procedure

13. The Commission is required, under section 140 of the Act, to notify the Licence Holder, the Secretary for Internal Affairs and other potentially affected persons of the proposed changes. The Commission has notified the Licence Holders and the Secretary only (with no other potentially affected person being identified). The Commission seeks submissions from parties on its proposal by **24 April 2015**.
  14. Having received submissions, the Commission will consider whether to seek submissions in reply from parties, before determining its proposal at a future Commission meeting.
5. The Commission received submissions from CCL, the Secretary and SKYCITY. SKYCITY's submission raised issues that the Commission considered the Secretary should address. The Commission therefore forwarded SKYCITY's submission to the Secretary, who provided a response.
  6. The Secretary's response raised issues that the Commission considered SKYCITY should address. The Commission therefore forwarded the Secretary's submissions to SKYCITY, which provided a response.
  7. Both the Secretary and CCL were supportive of the proposal, noting that consistency was desirable.
  8. While SKYCITY was generally supportive, it raised issues with the effect of proposed condition 36 (which would require exclusive use of a bank account for each casino) on a multi-site operator, particularly with overseas visitors depositing funds for use in more than one casino. SKYCITY submitted that, in order to comply with the Companies Act and Financial Reporting Act, it maintains sufficiently robust accounting records of all transactions for each individual casino, which include recognition of book transfers between individual casinos, such that maintaining multiple separate bank accounts would be an unnecessary complication.
  9. SKYCITY also raised the meaning and scope of the phrase "the operation of the casino", seeking confirmation that it was intended to cover not only the core casino business, but also all conjoint facilities.
  10. When asked to respond to the issues raised by SKYCITY, the Secretary confirmed that the primary concern was the proper recording of all financial transactions rather than the operation of bank accounts, so that, as a regulator, he was comfortable with SKYCITY



having a group bank account, rather than separate accounts for each casino, for its New Zealand casinos so long as its accounting systems continued to provide the necessary transparency of transactions. However, he had concerns about the proposal that a New Zealand group bank account could be used for gambling activities in Australian casinos because allowing patrons to use New Zealand casino accounts would make AML/CFT monitoring more difficult. He was opposed to any proposal to allow patrons to use funds in the New Zealand casino group account for gambling in Australia.

11. He had no concerns about the expanded meaning of "operation of the casinos" and the use of a single account for conjoint as well as core casino business, so long as the operator's accounting system allowed gambling activities to be identified clearly and tracked.
12. SKYCITY responded to the Secretary's submission by providing more background information on the operation of its bank accounts including the use of casino deposit accounts, which allow patrons to deposit and withdraw funds. It explained that funds deposited by a patron at one SKYCITY casino in New Zealand are available for use at any SKYCITY New Zealand casino. All such transactions are recorded in the electronic casino monitoring system.
13. The situation is not the same in respect of gambling in Australia, because funds held by SKYCITY in New Zealand are not automatically available for use in its Australian casinos. For a patron to use funds currently deposited in New Zealand in Australia, SKYCITY would have to facilitate a "transfer" of those funds. It does so by way of an inter-company transfer, debiting the New Zealand deposit account and crediting the Australian deposit account, adjusting for currency exchange rates.
14. The resulting transaction is a book transfer and does not involve the physical movement of funds. SKYCITY submitted that the practice causes no mischief and does not compromise AML/CFT monitoring. All such transactions attract an "International Funds Transfer Instruction" reporting obligation by the recipient Australian casinos to the Australian authorities and, if suspicious, a "suspicious matter" report obligation to the same authorities. In New Zealand, any customer seeking to transfer funds from a casino deposit account has a business relationship with SKYCITY and, as a consequence, will have undergone customer due diligence, in accordance with the New Zealand AML/CFT legislation and would be subject to an obligation to report suspicious transactions. In those circumstances, book transfers between casinos should not be objectionable.



15. The Commission considered the proposal and all submissions received, at its July 2015 meeting. The Commission considered that it would benefit from additional information from the Secretary.
16. The Commission asked the Secretary to respond to the following two matters:
- (a) Is there any reason, relevant to the purposes of the Gambling Act or the purposes for imposing casino licence conditions, to retain bank account licence conditions, either in the current or proposed form, or can they be revoked altogether?
  - (b) Is there any reason to retain the bank account licence conditions? What should they address specifically? Please provide draft licence conditions for each casino.
17. In response, the Secretary submitted that before a casino opens an overseas bank account, his Department would like the opportunity to check if there is any adverse information about the bank and/or the country with regard to anti-money laundering and countering financing of terrorism. With this in mind, he considers that all casino operator's licences should contain the following condition:

The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

18. The Commission considered the proposal again at its August 2015 meeting. Having regard to the submissions received, the Commission resolved to amend its proposal to amend the bank account licence conditions for all six New Zealand casinos.
19. The amended proposal for new bank account licence conditions for each casino, with the amended variations proposed shown in mark-up, were as follows:

**Auckland casino bank account licence conditions**

**Venue licence**

~~22. The Licence Holder shall not open any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.~~

**Operator's licence**

~~36. The Licence Holder shall keep and maintain a bank account or bank accounts as approved by the Commission at a bank or banks in New Zealand for use for all banking transactions relating to the operation of the Casino. The bank account(s) shall be used exclusively for the operation of the Casino.~~

36. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Hamilton casino bank account licence conditions****Venue licence**

~~22. The Licence Holder shall not open or use any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.~~

**Operator's licence**

38. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Christchurch casino bank account licence conditions****Venue licence**

~~20. The Licence Holder shall not open any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.~~

**Operator's licence**

37. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Dunedin casino bank account licence conditions****Venue licence**

~~22. The Licence Holder shall not open any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.~~

**Operator's licence**

38. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Queenstown casino bank account licence conditions****Venue licence**

~~23. The Licence Holder shall not open any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.~~

**Operator's licence**

38. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Wharf casino bank account licence conditions****Venue licence**

~~21. The Licence Holder shall not open any bank account to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.~~

### Operator's licence

36. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.
20. By letter dated 12 August 2015, the Commission notified SKYCITY, CCL, Dunedin casino and the Secretary of its new proposal, the reasons for the proposal and the procedure that the Commission would follow. Paragraphs 12-16 of that letter are set out as follows:

12. The Commission, therefore, proposes an amendment to the licence condition variation it proposed in its letter dated 19 March 2015. The Commission now proposes to remove the bank account licence condition attached to the venue licence for each casino, and to attach a single bank account licence condition to the operator's licence for each casino. The licence condition which the Commission proposes to attach is already attached as condition 37 to the operator's licence for the Auckland casino, while it represents a minor variation (to insert the word "overseas") to condition 36 for the Wharf casino, condition 37 for the Christchurch casino, and condition 38 for the Hamilton, Dunedin and Queenstown casinos. The Commission makes this amended proposal pursuant to section 139(1)(e) of the Act.
13. The current bank account licence conditions for each casino, with the new proposed variations shown in mark-up, are as follows:

[licence conditions as set out in paragraph 10 above]

### The reasons for the Commission's Proposal

14. The reasons for the amended proposal to the bank account licence conditions are set out above in the "Background" section, and the Commission's original proposal letter dated 19 March 2015.

### The Procedure

15. The Commission is required, under section 140 of the Act, to notify the Licence Holder, the Secretary for Internal Affairs and other potentially affected persons of the proposed changes. The Commission has notified the Licence Holders and the Secretary only (with no other potentially affected person being identified). The Commission seeks submissions from parties on its amended proposal by **Thursday, 10 September 2015**.
16. Having received submissions, the Commission will consider whether to seek submissions in reply from parties, before determining its proposal at a future Commission meeting.
21. In response to the Commission's amended proposal, SKYCITY submitted that it had no objection to the proposed new licence condition being attached to its operator's licence, but thought that the same licence condition should be attached to its venue licence to provide clarity, given that it is the venue licence holder (SKYCITY Auckland Limited) that currently operates SKYCITY's foreign holding accounts.
22. The Commission forwarded SKYCITY's response to CCL, Dunedin casino and the Secretary, and requested comments in response (in addition to any submissions they intended to make on the amended proposal). The Commission received responses from

all three parties; they all concurred with SKYCITY's suggestion to attach the new licence condition to the venue licence for each casino.

23. The Commission considered this matter again at its September 2015 meeting.

#### **Analysis**

24. The Commission initially proposed changes to the bank account licence conditions for all six New Zealand casinos, following applications by SKYCITY leading to decision GC14/14. The Commission made its initial proposal after noticing that the bank account licence conditions for each casino were not consistent, that errors had been made in the past and that amendments were desirable.
25. Submitters were not opposed to the proposal in principle but, as the Commission advanced matters, submissions identified various issues which required the Commission to seek responses from targeted parties.
26. In its initial submissions, SKYCITY raised:
- (a) whether the proposed licence conditions could be amended to accommodate a multi-site operator; and
  - (b) what the parameters of the phrase "the operations of the casino" were.

SKYCITY also queried the regulatory purpose of conditions of this nature.

27. As the issues raised by SKYCITY were best answered by the Secretary, the Commission forwarded SKYCITY's submissions to him (rather than directing them to all submitters) and requested that he address the issues raised.
28. In response, the Secretary stated, *inter alia*, that:

Regarding the regulatory purpose of the bank account requirements, the main regulatory concern is that all financial transactions are properly recorded and can be monitored for unusual or suspicious activity relevant to the Anti-Money Laundering and Countering Terrorist Financing legislation. As a regulator, DIA is comfortable with SKYCITY having a group bank account rather than separate accounts for each casino provided that their accounting systems continue to allow sufficient transparency for us to identify and track individual transactions relating to gambling revenue and expenditure. The key control for us is the operators' accounting systems rather than the bank accounts.

29. On considering the Secretary's response, it appeared to the Commission that the Secretary was more concerned with the rigour of the casinos' internal accounting systems and his access to them than with the identity of, or restrictions on the use of, any bank accounts by casinos or with bank account licence conditions. It also appeared to the Commission that the Secretary may already possess sufficient legal means to have the

level of regulatory oversight required by him, without any need to rely on bank account licence conditions, either in the current or proposed form. Accordingly, the Commission asked the Secretary whether there was any value in retaining bank account licence conditions at all.

30. In response, the Secretary submitted that for AML/CFT purposes, there is value in retaining an appropriate licence condition because he wants his Department to have the ability to investigate the bank and/or the country in which an operator proposes to open an overseas bank account. With this in mind, he proposed that a new condition be attached to the operator's licences for each casino, as follows:

The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

31. The Commission then initiated a new proposal, in line with that suggested by the Secretary. That is, the Commission proposed to revoke the bank account licence conditions attached to the venue and operator's licences, and proposed to attach to each operator's licence, the licence condition suggested by the Secretary.
32. The Commission sought submissions on the new proposal from the casino operators and the Secretary. SKYCITY was the first party to respond, submitting that it had no objection to the amended proposal. However it also submitted that, as most of its foreign holding accounts are in the name of SKYCITY Auckland Limited (the holder of the venue licence for the Auckland casino), the new condition should also be attached to each venue licence.
33. Before the Secretary or the other two operators had responded to the Commission's new proposal, the Commission forwarded SKYCITY's submission to them for comment. All parties agreed with SKYCITY's suggestion.
34. The Commission decided to revoke the bank account licence conditions attached to the venue and operator's licences for all six New Zealand casinos, and to attach the new licence condition in their place. The Commission was of the view that doing so would provide oversight of the opening of new overseas bank accounts by casino operators and, as part of this process, the DIA, as regulator, would be able to investigate the bank and the country proposed and report its findings to the Commission.
35. The Commission was also of the view that the proposed licence condition was consistent with the purpose of the Act and the section 139(2) criteria; namely:



**139 Conditions of casino licence**

...

- (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).

36. As all parties were in agreement on the form of the licence conditions to be attached, the Commission saw no need to consider any issues arising out of the submissions on the Commission's initial proposal in relation to the "operation of the casino" or SCML's transfer of customer funds (either internally within New Zealand, or offshore to Australia). If this issue requires further consideration at the licence condition level, parties can propose appropriate amendments to the licence conditions under section 139 of the Act, for the Commission's future consideration.

**Decision**

37. The Commission resolved under section 139(1)(e) of the Act, to revoke the existing bank account licence conditions for each casino, and specify new licence conditions in their place, as follows:

**Auckland casino bank account licence conditions****Venue licence**

22. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Operator's licence**

36. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Hamilton casino bank account licence conditions****Venue licence**

22. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

**Operator's licence**

38. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.



### **Christchurch casino bank account licence conditions**

#### **Venue licence**

20. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

#### **Operator's licence**

37. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### **Dunedin casino bank account licence conditions**

#### **Venue licence**

22. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

#### **Operator's licence**

38. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### **Queenstown casino bank account licence conditions**

#### **Venue licence**

23. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

#### **Operator's licence**

38. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### **Wharf casino bank account licence conditions**

#### **Venue licence**

21. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

#### **Operator's licence**

36. The Licence Holder shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

### **Right of appeal**

38. 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

17<sup>th</sup> December 2015

