

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

**AND** on a proposal by the Gambling Commission to vary condition 8(a) of the venue licences held by SKYCITY Auckland Limited, SKYCITY Hamilton Limited, Queenstown Casinos Limited, Christchurch Casinos Limited, Dunedin Casinos Limited and Otago Casinos Limited

**BEFORE THE GAMBLING COMMISSION**

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

Date of Proposal: 3 August 2011

Date of Decision: 14 October 2011

Date of Notification  
of Decision: 18 November 2011

**DECISION ON A PROPOSAL BY THE GAMBLING COMMISSION  
TO VARY CONDITION 8(a) OF THE VENUE LICENCES FOR  
SKYCITY AUCKLAND LIMITED ("SCAL"), SKYCITY HAMILTON LIMITED ("SHL"),  
QUEENSTOWN CASINOS LIMITED ("QCL"), CHRISTCHURCH CASINOS LIMITED  
("CCL"), DUNEDIN CASINOS LIMITED ("DCL") AND  
OTAGO CASINOS LIMITED ("OCL")**

**Proposal**

1. Following decision GC15/11, the Gambling Commission proposed, by letter dated 9 August 2011, to vary condition 8(a) of the venue licences for all casinos under section 139(1)(e) of the Gambling Act 2003 (the "Act"). The proposal provided that gambling activity should be neither visible nor audible from outside the casino venues.
2. Section 140 of the Act requires the Commission to notify the Licence Holder, the Secretary for Internal Affairs (the "Secretary") and other potentially affected persons of the proposed changes. Accordingly the Commission notified the Licence Holders, the Secretary, Problem Gambling Foundation ("PGF"), Salvation Army and Gambling Helpline. The Commission received responses from OCL, CCL, PGF, SKYCITY (representing SCAL, SHL and QCL) and the Secretary.



3. By letter dated 14 September 2011, the Commission wrote to submitters offering them the opportunity to file submissions in reply to matters raised by other submitters. The Commission received responses from SKYCITY and PGF.

#### **Licence conditions**

4. The proposed amendment to condition 8(a) of the venue licences for the Auckland, Christchurch, Dunedin and SKYCITY Queenstown casinos is shown in mark-up as follows:

8. The Licence Holder shall ensure that:

- (a) gambling activity is neither not visible nor audible from ~~the street or other public areas~~ outside the Casino Venue; and

5. The proposed amendment to condition 8(a) of the venue licence for the Hamilton casino is shown in mark-up as follows:

8. The Licence Holder shall ensure that:

- (a) gambling activity is neither not visible nor audible from ~~the street or other public areas~~ outside the Casino Venue, except where and to the extent that the Commission may approve otherwise; and

6. The proposed amendment to condition 8(a) of the venue licence for the Wharf Queenstown casino is shown in mark-up as follows:

8. The Licence Holder shall ensure that:

- (a) gambling activity is neither not visible nor audible from ~~the street or other public areas~~ outside the Casino Venue, except where the Authority has approved, or where the Commission may approve otherwise; and

#### **OCL's submissions**

7. OCL submitted, in summary, as follows:
- (a) The addition of the word "audible" is impractical and would be impossible for it to police. Its main entrance is at the front of the building, and comes from a public walkway. Once this door is open, it would be impossible to prevent gambling activity from being audible outside the casino.
- (b) The second entrance is from its conjoint restaurant/bar. This has two sets of doors to pass through. If both sets of doors are open, gambling activity could be audible from outside the casino.
- (c) It also has an outside smoking balcony off its gaming floor which is accessed by a set of double doors. These doors are often open and closed so it would be

impossible to ensure that gambling activity was not audible from outside the venue.

- (d) Deleting the words "street or other public area" does not affect its business.

**CCL's submissions**

8. CCL submitted, in summary, as follows:

- (a) The proposed changes will not materially impact on its operations. However the wording for the Hamilton and Wharf casinos allows for an exemption to the visibility and audibility requirements. A consistent approach should be taken for all casinos – gambling is either allowed to be seen and heard, or it is not.
- (b) To provide an exemption could advantage one casino over another, or imply that patrons in some parts of the country are more or less susceptible to gambling sights or sounds.
- (c) Allowing the Commission to approve an exemption for all casinos would allow the casinos that do not require such an exemption now to obtain one in the future, without the need to pay for a change to the licence conditions.

**PGF's submissions**

9. PGF submitted, in summary, as follows:

- (a) It is strongly in favour of the Commission's proposal.
- (b) The proposal is a clear example of what is required of the Commission and of casinos to give effect to the purposes of the Gambling Act, particularly a requirement to "control the growth of gambling" and "to prevent and minimise the harm caused by gambling, including problem gambling".
- (c) It agrees with the Commission's comments from decision GC15/11 – there is no reason why the clearly prescribed prohibition in licence condition 8(a) on gambling being visible from streets and other public areas should not also apply to all private areas outside the premises.
- (d) Actual or potential problem gamblers should be protected from being seduced into gambling at the casino when passing by or carrying out entirely unrelated activities nearby.



- (e) It also supports the proposed ban on external audibility. The sound of pokie machines can be just as seductive to potential problem gamblers as flashing lights.
- (f) It frequently works with gamblers to help organise their daily activities in such a way that they are prevented from being exposed to gambling activities. Because casinos are usually located in busy central city areas, and in close proximity to key areas for shopping, accommodation, recreation and employment, it is vital that there be a ban on the visibility and audibility of gambling activities.
- (g) It is concerned that the proposal appears to give a partial "let out" for the Hamilton and Wharf casinos, and it hopes that exemptions would only ever be considered where there is no practical alternative. It therefore seeks an addition to the wording of the condition for the Hamilton and Otago casinos which would provide: "such approval may only be applied for and consented to where there is no other practical alternative available at all that would be consistent with the effective operation of the casino."

#### **SKYCITY's submissions**

10. SKYCITY submitted (on behalf of SCAL, SHL and QCL), in summary, as follows:
  - (a) In the course of determining a recent application, the Commission stated that, in principle, gambling activity should not be visible from anywhere outside the casino and that there is no reason to distinguish between gambling activity being visible from public areas versus gambling activity being visible from private areas.
  - (b) The current wording of condition 8(a) was adopted at the request of the DIA during a review of the Auckland licence conditions in 2006. In proposing that gambling activity should not be visible from the street or other public areas (rather than from anywhere outside the casino) the DIA commented that "there is no great concern about activity being visible from private areas therefore and that the casino may not have much control over such visibility." That proposal did not attract objections and the Commission subsequently adopted the wording proposed by the DIA.
  - (c) The Commission's proposed change to the wording would seem to recreate the problem that the DIA sought to address in 2006. At the very least the obligation should not have a retrospective effect, otherwise a casino operator might be liable for meeting an obligation it has been excused from since the condition was changed in 2006. Similarly, the introduction of an audibility test that has never



applied previously may place some casinos in a position of non-compliance arising from their building design. Hamilton casino is one such example.

- (d) The Hamilton and Wharf conditions allow the Commission to approve an arrangement where gambling activity is both visible and audible. In the event that the Commission chooses to proceed with the proposed amendments, the provision to grant exemptions should apply to all casinos. The Commission could then consider any applications for such exemptions on their individual merits. The fact that both Hamilton and Wharf currently have exemptions from the existing visibility requirements is no reason to limit the exemption provisions to those casinos only, particularly when the proposed amendments create a wider obligation that may impact other casinos.
- (e) It is quite feasible that new building developments external to the casino, and outside a casino operator's control subsequent to the introduction of any proposed new condition, could place a casino operator in breach of the licence condition which would seem neither fair nor reasonable. An exemption clause would provide operators with at least one potential safeguard in this respect.
- (f) In decision GC15/11, the Commission said that the longstanding rule that gambling activity should not be visible from outside the casino may relate in part to elements of concern about preventing gambling harm but that the Commission was inclined to the view that it also reflects a more general concern about environmental control which has been in place since casinos opened in New Zealand.
- (g) In terms of the concern about gambling harm, the benefits of imposing restrictions on the visibility of gambling activity from outside gaming venues was considered by the Secretary in conjunction with a range of other issues in 2003. In a consultation document seeking feedback on the makeup of regulations relating to harm prevention and minimisation in casinos and class 4 venues, the Secretary noted that it was difficult to gauge the effectiveness of controls around visibility and other design features, such as the level of natural light, given the existence of often prominent exterior signs and/or lighting on gambling venues. The Secretary noted that requiring venue design features could have major cost impacts and in the absence of stronger evidence that they reduce harm, it would be difficult to argue that they should be required for existing venues. The Secretary went on to state that the introduction of such requirements for new venues might be justified if the evidence of their usefulness were more compelling.



- (h) In any event, no regulations were introduced to restrict visibility of class 4 gambling venue interiors at either existing or new venues, and gambling activity in many such venues today is clearly visible and audible from the street. One conclusion to be drawn from this might be that the Secretary is satisfied there is no compelling evidence that gambling visibility restrictions contribute to harm prevention and minimisation.
- (i) The absence of any wider legislative restrictions on gambling advertising (the one exception being gaming machine jackpot advertising) which enables gambling activity to be televised and broadcast into private areas would also seem to be consistent with the view that neither visual nor auditory gambling stimuli are considered harmful.
- (j) It has reviewed literature relating to "cue reactivity" research and has not identified a need to tighten existing visibility restrictions or introduce auditory restrictions in casinos as a mechanism to prevent gambling harm.
- (k) It is not aware of any current arrangements regarding the visibility and audibility of gambling activities in casinos that have sparked complaints from members of the public. In the absence of such complaints, and in the absence of similar restrictions applying to class 4 gambling venues, it does not see the need for the Commission's proposed changes.
- (l) Its approach to environmental design, as set out in its Host Responsibility Programme, is to ensure that Gambling Areas are well lit and utilise natural light where possible. Visibility restrictions have the potential to create a natural tension with this ideal. Queenstown casino has windowed areas on the upper level which utilise the natural light during daytime operations but which might also offer persons in surrounding buildings some view of the activity occurring within. The same applies in some areas of the Auckland casino.
- (m) The proposed variations appear to be driven primarily by the development of "open" areas in some casino venues, rather than pre-existing design arrangements. In this sense the Commission's consideration of environmental controls would be better addressed by an amendment to the relevant conditions pertaining to construction or design changes to the Gambling Area. Pursuant to those conditions, Licence Holders are currently required to provide the Commission with an assessment of any impacts the alterations may have on a range of matters. The Commission could extend those matters to require Licence Holders to provide an assessment of any impacts the alterations might have on



the visibility and audibility of gambling activity from outside the casino. The Commission could then assess the significance or otherwise of those matters on their merits and in the context of wider issues pertaining to harm minimisation, such as the utilisation of natural light. In its view, there is a vast difference between a Gambling Area, where parts of it can potentially be seen or heard from a select few private vantage points outside of the casino and one that is on full public display.

### **Secretary's submissions**

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

- (a) He supports the visibility restriction and agrees with the arguments and conclusions outlined in decision GC15/11. That is, there is no reason to loosen or remove an environmental control which has been in place since casinos opened in New Zealand. Nor does he consider there to be any reason to make a distinction between visibility from public or private areas.
- (b) He has previously argued in favour of the proposed audibility restriction. This is because:
  - (i) Research has established that exposure to environmental cues associated with pleasurable behaviour tends to elicit urges to engage in that behaviour. Research has established that this is also the case with addictive behaviour. An example of this is when a smoker reports a strong desire to smoke after being exposed to smoking related stimuli, such as a lighter or pictures of cigarettes. This phenomena has been called "cue-reactivity". Cue reactivity has been documented in a number of addictions and behaviours, including gambling.
  - (ii) In a 2007 study, problem gamblers were exposed to, and moved about in, a casino environment, but did not gamble. Gambling cues that the problem gamblers were exposed to included sights, sounds and smells typically associated with the casino. Periodically, the experimenters measured the intensity of the problem gamblers' urge to gamble. The authors concluded that this rate of cue reactivity was similar to that found in studies of alcoholics exposed to drinking related cues.
  - (iii) Of interest to the current proposal, the Study included exposure to auditory stimuli. The finding that exposure to gambling related stimuli, including auditory stimuli, elicits gambling urges in problem gamblers is



relevant to the current proposal, by suggesting negative implications for problem gamblers who happen to pass by a casino in which gambling related noise reaches the street. This issue may have become more relevant since the Commission's smoking balcony decisions because more sound should be able to reach the street from open gambling areas, compared to indoor gambling areas.

- (iv) Previous statements infer that the condition restricting audibility should not be difficult to satisfy (at least at the Auckland casino) when it stated that "on a practical level, SCAL believes that it is unlikely that persons will be easily able to hear gambling related sounds from surrounding streets, given the distance from the gaming machines and other ambient noise at street level." He believes that a condition restricting audibility should be imposed because future approval of "open areas" could potentially lead to an increase in gambling related noise being heard outside casino venues.
- (v) In his submission leading to decision GC15/11, he assumed that the reason for imposing condition 8(a) related to harm minimisation, but in its decision the Commission explained a different view; namely that rationale may contain elements of concern about preventing gambling – "... the Commission is inclined to the view that it also reflects a more general concern about environmental impact." He notes that even if the underpinning rationale did originally reflect a more general concern about environmental impact, the current legislation now requires him to be more concerned about preventing and minimising harm.
- (vi) In any event, he is of the view that a restriction on audibility would be consistent with the longstanding restriction on visibility. That is, the reasons for restricting visibility, whether they are related to harm prevention or environmental control, should also support a restriction on audibility.

#### **SKYCITY's submissions in response**

- 12. In response to the submissions raised by other submitters, SKYCITY submitted, in summary, as follows:
  - (a) The Secretary supports the tightening of the visibility restrictions that have been in place since 2006, and the introduction of an audibility restriction. Neither of these restrictions applies to gambling activity in the Class 4 sector which the Secretary regulates. If the Secretary believes that either visual or auditory gambling stimuli



may be harmful, it questions why he has not imposed the same restrictions on Class 4 operators that he now urges the Commission to impose on the casino. The Secretary's views appear to reflect a double standard.

(b) It has previously commented on the cue reactivity research cited by the Secretary – its view is that there is no justification to extrapolate the findings from the research cited to support the tightening of visibility restrictions and/or introducing auditory restrictions in casinos, as follows:

- (i) The 2007 Study is not directly relevant to this matter. That Study assessed problem gamblers' subjective urges to gamble when accompanied inside a casino environment. The effects of this direct and immediate exposure to gambling while inside a casino are not comparable to the effects of potential inadvertent exposure to gambling while outside SCAL's casino venue. For example, if a problem gambler was to see gaming machines in the proposed outdoor gambling area from adjacent buildings or from the streets below, they would have to make a concerted effort to leave their immediate environment to enter the casino, and go to the gambling floor in order to act on their urge to gamble. There is no evidence to indicate that any urges to gamble as a result of potential inadvertent exposure would be strong enough to elicit such a considered response from problem gamblers in adjacent buildings or on surrounding streets.
- (ii) The extent of a problem gambler's potential urge to gamble, having experienced gambling cues while outside the casino, are also likely to be significantly less than if they were inside the casino, as they were in the 2007 Study. While outside the casino, they would be exposed to other stimuli in their immediate environment, such as television, conversation, food etc, whereas in the 2007 Study they were made, among other things, to watch a researcher play a gaming machine while they were not allowed to gamble.
- (iii) On a practical level, it is unlikely that people will be able easily to hear gambling related sounds from surrounding streets given that the gaming machines are two storeys above the ground, and because of other ambient noise on the street, especially traffic noise on Hobson Street.
- (iv) Other aspects of the 2007 Study limit its applicability. Participants' reactions to the casino environment in the Study may have been artificially



heightened as a result of the "urge priming" procedure carried out as they were driven to the casino. This entailed asking participants to list what they would do if they were to have "a very successful day gambling". Further, the Study measured participants' self reported urges to gamble, not the effects of gambling cues on actual gambling behaviour.

- (v) The Study also highlights other research which suggests that not all problem gamblers are driven to gamble primarily because of appetitive urges, meaning that others may gamble for reasons such as escapism but not necessarily in response to seeing or experiencing gambling environments.
- (vi) It also assessed a 2009 Study regarding cue reactivity and found its findings to be incomparable with the smoking balcony at the Auckland casino. The Study involved exposing problem gamblers and social gamblers to several two minute DVD clips of exciting gambling scenarios. The direct and deliberate exposure to gambling scenarios (albeit in an artificial and somewhat removed sense in a laboratory and via a DVD) would likely elicit significantly different reactions towards gambling than would potentially inadvertent exposure to visual or auditory stimuli in a casino environment from outside the casino.

(c) The issues raised by the PGF were fully canvassed in its original submission.

(d) The additional wording proposed by the PGF is unnecessary.

**PGF's submissions in response**

13. In response to the submissions raised by other submitters, PGF submitted, in summary, as follows:

- (a) It strongly supports the points made by the Secretary, particularly the cue reactivity comments.
- (b) With respect to the visibility cue issue, it also agrees with the Secretary's comments; namely that people who are located in private areas should be afforded consideration with regard to harm minimisation as those people who are located in public areas.
- (c) It does not agree with the submissions made by the three casino operators. The submission that the Secretary did not previously seek visual and auditory controls

in 2003 is countered by the fact that the research on which his submission relies was published after that time.

- (d) The submission that other casino operators should also be allowed the partial exemption permitted for Hamilton and Wharf casinos is invalid as the exemption should have been proposed only to avoid the proposed condition having a retrospective effect by otherwise obliging them to change their existing approved designs. These two partially exempt casinos are over 100 kilometres away from others and are not in a direct competitive situation as far as that particular design feature is concerned.

## **Analysis**

### *Background*

14. The Commission's proposal to vary condition 8(a) for all casinos arose from decision GC15/11, in which the Commission approved the construction of an area in which patrons of the Auckland casino could both smoke and play gaming machines. As part of its deliberations on that matter, the Commission considered whether gambling activity should be visible and/or audible from outside the casino. The Commission determined that gambling activity should not be visible from outside casinos and stated that it would initiate an amendment to condition 8(a) for all casinos to ensure that the condition clearly prevents this.
15. In the concluding paragraphs of GC15/11, the Commission stated that it would initiate an amendment to condition 8(a) for all casinos to provide that gambling activity should not be audible from outside casinos so that the Commission could receive the benefit of submissions on that issue as well.

### *Visibility of gambling activity from outside the casino*

16. In decision GC15/11, the Commission concluded that there was a longstanding rule in respect of casinos in New Zealand that gambling activity was not to be visible from outside the casino, and there was no sound policy reason to depart from that rule (notwithstanding an uncontested partial rule relaxation in 2006). The Commission set out the reasons for its view, which are worth repeating here. At paragraphs 29-39 of decision GC15/11, the Commission stated as follows:

29. All casinos in New Zealand, including the Auckland casino, were licensed to operate on condition that gambling activity was not visible from outside the casino. There have been two minor exceptions to this rule for the Hamilton and Wharf casinos (in which people in a public area outside the Hamilton casino can view gambling activity if they stand at the very far left of the main entrance and look in, or if people are on the upper deck of the "Earnslaw"

steamship, which docks outside the Wharf casino), but they do not undermine the essence of the original rule.

30. The original condition regarding visibility of gambling activity at the Auckland casino was as follows:

**A4 General Specifications for physical layout**

The holder shall ensure that:

- (a) gaming activity is not visible from outside the casino complex; ...

31. This condition was amended when the Commission reviewed the licence conditions for the Auckland casino in 2005 and 2006, to provide as follows:

8. The Licence Holder shall ensure that:

- (a) gambling activity is not visible from the street or other public areas outside the Casino Venue; ...

32. The equivalent conditions were similarly amended for the other casinos in the country, although the relevant conditions for SKYCITY Hamilton and Wharf casinos contained the further provision that gambling activity may be visible as and when approved by the Commission.

33. It is clear from reviewing each of the decisions that the change was approved without discussion on the basis that it was supported by all parties. The Commission did not have the potential effect of the change drawn to its attention and did not consider specifically whether the visibility controls, which had been in place from the outset of casino gambling, should be relaxed.

34. SCAL submitted that, although it was not seeking to abandon the visibility rule, the licence condition nevertheless allows visibility from private areas outside the casino, so its proposal complies with the condition's wording.

35. The Secretary argued that the public/private distinction apparently created by the changed condition is arbitrary, and that it is possible that visibility from some private areas may be more detrimental than visibility from some public areas. Although it was he who proposed the change to condition 8(a), he now agrees with the view expressed by the Commission in decision GC05/09, in which the Commission held that gambling should not be visible from outside the casino despite the narrower wording of condition 8(a).

36. The present application has required the Commission to consider, as a matter of policy, whether it is desirable to maintain the present visibility restriction, remove the public/private distinction or abandon the visibility control altogether. The Commission last considered this issue in decision GC05/09, in which the Dunedin casino sought Commission approval to construct a restaurant adjacent to the casino, and for gambling activity to be visible from that restaurant. In declining the application, the Commission stated:

44. A requirement to ensure that gambling activity is not visible from outside the casino premises has been a standard feature of casino licences. Exceptions have been created and allowed in particular cases where existing building constraints have created a limited potential for visibility (as explained below) but those exceptions do not alter the normal approach.

...

47. In this case, the associated construction changes sought by DCL would have the purpose and effect of creating the visibility problem, with DCL seeking relief from the very problem which it set out to create. Granting an approval in such a case would, in reality, be an abandonment of the rule against visibility. The Commission declines to vary condition 8(a) as sought.
37. The Commission's views have not changed. It does not see any reason to depart from the longstanding rule that gambling activity should not be visible from outside the casino. The rule appears to have been implemented to limit the extent to which people outside the casino are exposed to the sight of gambling. The underpinning rationale may contain elements of concern about preventing gambling harm but the Commission is inclined to the view that it also reflects a more general concern about environmental impact. The Commission can see no reason to loosen or remove an environmental control which has been in place since casinos opened in New Zealand.
38. The Commission sees no reason to make a distinction between visibility from public or private areas. The only logical purpose of the condition (to limit the extent to which people outside a casino are exposed to the sight of gambling) does not support such a distinction because gambling activity should, as a matter of policy, either be visible, or it should not.
39. As noted above, the Secretary has changed his view and now supports the visibility restriction.
17. SKYCITY and CCL submitted that condition 8(a) for the Hamilton and Wharf casinos, which allows the Commission to permit gambling activity being visible from outside those casinos, creates inconsistency and unfairness as the other casinos cannot seek the same exemption. The Commission does not agree. As the Commission noted in decision GC15/11, these exceptions were implemented for the Hamilton and Wharf casinos because of specific issues arising from their designs. There is no unfairness in allowing these exceptions to remain, nor do they represent an abandonment of the visibility rule – rather they simply reflect the reality that a total visibility restriction should not be imposed on those casinos because of elements present in their design from the time that they were first licensed.
18. SKYCITY submitted that condition 8(a) should not be applied retrospectively as operators may be liable for meeting an obligation they have been excused from since the condition was amended in 2006. The Commission disagrees that there is any potential for retrospectivity that justifies concern. The condition does not operate retrospectively in the sense that operators can be the subject of an application for breach of a condition which did not exist at the relevant time. Because it has had regulatory oversight of construction changes, the Commission is aware that no casino has been permitted to make changes in reliance on the more recent and relaxed condition. It has declined to permit changes that might have relied on the more relaxed standard and the proposal for a rule change is to ensure that the condition correctly reflects its policy.



*Audibility of gambling activity from outside the casinos*

19. The Commission has not previously considered whether the audibility of gambling activity from outside a casino raises any issues of regulatory concern. Unlike the position with visibility, none of the six casinos have ever had an audibility restriction imposed, and the issue has only arisen now following the Commission's approval of "open" gambling balconies at the Auckland and Dunedin casinos with the possibility that the gambling activity on these balconies may be audible from outside.
20. The Commission considered that a new audibility restriction was not justified on the material before it. The Commission was of the view that there would not be a sufficiently clear benefit arising from the imposition of a new audibility restriction, but that there would likely be a significant downside to some of the operators.
21. For a start, the Commission considered it highly unlikely that gambling activity on the balconies of the Auckland and Dunedin casinos would be audible from outside the casinos because of the extent of the ambient noise surrounding the venues. This is particularly true for the Auckland casino. Members of the Commission have stood outside the balcony on several occasions, and at different times of the day. The street and traffic noise were such that it was impossible to hear anything else, let alone gaming machines two storeys up. The situation might be different in the still of the night but few people would be on the street at this time.
22. In support of a general audibility restriction, the Secretary and PGF referred to research which suggested that auditory stimuli could result in increased desire to gamble. SKYCITY's response was that the research was not applicable as it involved scenarios quite different to those which pertain at the Auckland casino and that anyway the research did not indicate or demonstrate an increase in harmful behaviour. The Commission also noted an absence of any evidence that audibility has been identified as a factor in problem gambling at casinos in the past. The Commission considers that the present case for real benefits arising from the introduction of audibility restrictions in the interests of harm minimisation is not a strong one.
23. On the other hand, the introduction of an audibility restriction would produce a significant potential downside in that some or all of the casinos might need to spend considerable sums to ensure that gambling activity was never audible from outside the venues. To justify the imposition of the likely cost of such a restriction on the casinos, there would need to be clear evidence of real resulting benefit in terms of harm minimisation.
24. The Commission is required to achieve overall an acceptable and reasonable balance between potential harm minimisation steps and their cost to operators and non-problem



gamblers. There is a significant difference in the cost of maintaining a longstanding restriction and of imposing a new one. The Commission has concluded that this consideration is the most likely explanation for the failure of Secretary to impose audibility restrictions on gaming machines at class 4 venues around the country, despite many being highly audible from outside those venues, certainly much more audible than gambling activity could be from outside the Auckland or Dunedin casinos. It takes a similar view in respect of casinos – the likely benefits of such a restriction do not justify the likely costs that would also result.

25. The Commission intends to keep the issue under consideration. If new research emerges or it subsequently transpires that there is a clear link between audibility of gambling activity and harm, the Commission will not hesitate to reconsider whether an audibility restriction should be imposed.

#### **Decision of the Commission**

26. The Commission amended condition 8(a) of the venue licences for the Auckland, Hamilton, Queenstown, Wharf, Christchurch and Dunedin casinos, to restrict the visibility of gambling activity from outside the casinos. The amendments were made pursuant to section 139(1)(e) of the Act. No restriction was imposed to prevent gambling activity from being audible outside the casinos.

27. Condition 8(a) for the Auckland, Christchurch, Dunedin and SKYCITY Queenstown casinos now provides as follows:

8. The Licence Holder shall ensure that:

- (a) gambling activity is not visible from outside the Casino Venue; and

28. Condition 8(a) for the Hamilton casino now provides as follows:

8. The Licence Holder shall ensure that:

- (a) gambling activity is not visible from outside the Casino Venue, except where and to the extent that the Commission may approve otherwise; and

29. Condition 8(a) for the Wharf Queenstown casino now provides as follows:

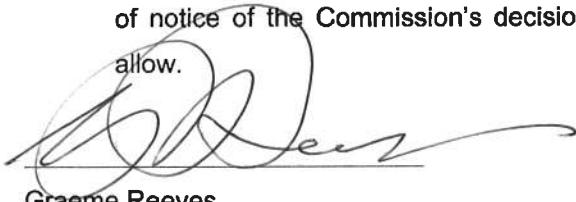
8. The Licence Holder shall ensure that:

- (a) gambling activity is not visible from outside the Casino Venue, except where the Authority has approved, or where the Commission may approve otherwise; and

#### **Right of appeal**

30. 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

18 November 2011

