

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY AUCKLAND LIMITED** to vary conditions 6 and 7 of its venue licence for the Auckland casino

BEFORE THE GAMBLING COMMISSION

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

Date of Application: 6 August 2013

Date of Decision: 13 September 2013

Date of Notification
of Decision: *19th* September 2013

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
TO VARY CONDITIONS 6 AND 7 OF ITS VENUE LICENCE
FOR THE AUCKLAND CASINO**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") applied, pursuant to section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to vary conditions 6 and 7 of its venue licence. The proposed amendments would require SCAL to seek approval for construction and design changes to all areas of the casino that have been designated as Gambling Area.
2. Section 140 of the Act requires the Commission to notify the licence holder, the Secretary for Internal Affairs ("**Secretary**") and other potentially affected persons of the proposed changes. The Commission notified the licence holder and the Secretary only; there being no other potentially affected persons.

Licence conditions

3. The licence conditions, with the proposed variations shown in mark-up, are as follows:
 6. The Licence Holder must obtain the approval of the Commission prior to:
 - (a) construction or design changes to Levels 1, 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 1, 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 1, 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.

The Act

4. 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).

Submissions by SCAL

5. SCAL submitted, in summary, as follows:
 - (a) It must obtain Commission approval prior to construction or design changes to levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area, but excluding a range of areas outside the Gambling Area.
 - (b) In decision GC06/13 the Commission approved a new area on level 1 of the casino venue that may be used as a Gambling Area. The approval of that application would suggest that consequential changes are necessary to licence conditions 6 and 7 to recognise that Commission approval should be obtained prior to changes to level 1 which impact the Gambling Area. Similarly the notification requirements specified in licence condition 7 should be amended to include construction or design changes to level 1.

The Secretary's submissions

6. The Secretary supported SCAL's proposal.

Analysis

7. SCAL applied to amend conditions 6 and 7 of its venue licence following decision GC06/13, in which the Commission approved an extension to the Gambling Area to include an area on level 1 of the casino.
8. The amendment would require SCAL to obtain Commission approval for any construction and design changes to level 1; consistent with the approval requirements for the other Gambling Areas at the casino. The proposal is sensible and raises no issues of regulatory concern. The Commission noted that condition 5 of SCAL's venue licence should also be amended to incorporate level 1, as follows:

The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Levels 1, 2, 3, 5 and 6 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes alterations to the casino venue requiring building consent from a territorial authority.

The Commission amended condition 5 on its own initiative, under section 139(1)(e) of the Act.

Decision

9. The Commission amended licence conditions 5, 6 and 7 of SCAL's venue licence to incorporate the level 1 Gambling Area, pursuant to section 139(1)(d) and (e) of the Act. Conditions 5, 6 and 7 now provide as follows:

5. The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Levels 1, 2, 3, 5 and 6 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes alterations to the casino venue requiring building consent from a territorial authority.
6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Levels 1, 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 1, 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 1, 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.

Right of appeal

10. 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

1st September 2011

