IN THE MATTER of the Gambling Act 2003

AND on a proposal by the Gambling Commission to revoke conditions of the venue licence held by **SKYCITY AUCKLAND LIMITED** and the operator's licence held by **SKYCITY MANAGEMENT LIMITED** and to specify new conditions

BEFORE THE GAMBLING COMMISSION

Members: P Chin (Chief Gambling Commissioner)
K M Ford
M M Lythe
P J Stanley
G L Reeves

Date of Proposal: 29 July 2005

Date of Interim Decision: 23 December 2005

Date of Notification of Final Decision: 27 March 2006

FINAL DECISION

ON A PROPOSAL BY THE GAMBLING COMMISSION TO REVOKE CONDITIONS OF THE VENUE LICENCE HELD BY SKYCITY AUCKLAND LIMITED AND THE OPERATOR'S LICENCE HELD BY SKYCITY MANAGEMENT LIMITED RELATING TO SKYCITY AUCKLAND CASINO, AND TO SPECIFY NEW CONDITIONS

1. INTRODUCTION

1.1 The Gambling Commission (the "**Commission**") proposed, on its own initiative under section 139 of the Gambling Act 2003 (the "**Act**"), to revoke the conditions of the venue licence held by SKYCITY Auckland Limited ("**SCAL**") and conditions of the operator's licence held by SKYCITY Management Limited ("**SCML**") relating to SKYCITY Auckland casino, and to specify new conditions in substitution.

1.2 SCAL, SCML, the Secretary for Internal Affairs (the "**Secretary**") and potentially affected persons comprising the Ministry of Health ("**MoH**"), Christchurch Casinos Limited ("**CCL**"), Dunedin Casinos Limited ("**DCL**"), Otago Casinos Limited ("**OCL**"), Problem Gambling Foundation ("**PGF**") and Gambling Helpline ("**GH**") were notified of the Commission's proposal on 29 July 2005, and invited to make written submissions in accordance with section 140 of the Act. Submissions were made by SCAL, SCML, CCL, OCL, the Secretary, MoH, PGF, and GH (the "**parties**"). The Commission convened an oral hearing on 24 November 2005 to hear the parties.

1.3 Having considered written and oral submissions, the Commission issued an Interim Decision setting out further amended sets of conditions which the Commission proposed to specify for SCAL's venue licence and SCML's operator's licence (as it related to SKYCITY Auckland casino). Parties were given until 10 February 2006 to make written submissions on the amended draft conditions proposed by the Commission.

1.4 Further written submissions were received from SCAL, SCML, the Secretary, MoH, CCL, PGF and GH. The Commission has considered these, and now issues its Final Decision.

1.5 This Decision revokes the conditions attached to the Casino Premises Licence issued to Sky Tower Casino Limited dated 24 April 1995 (now a casino venue licence pursuant to section 122 (2) of the Act), including all variations and additions to those conditions made by the Casino Control Authority (the "**Authority**") or the Commission. It specifies in substitution the new conditions attached to this Decision marked "Schedule – Conditions".

1.6 This Decision revokes the conditions attached to the Casino Operator's Licence issued to Sky City Casino Management Limited dated 7 May 1998 and headed "Conditions Attached to Casino Operator's Licence: Operation of Casino at Wellesley, Federal, Victoria and Hobson Streets, Auckland", including all variations and additions to those conditions made by the Authority or the Commission. It specifies in substitution the new conditions attached to this Decision with the same heading.

1.7 For the avoidance of doubt, conditions of SCML's Operator's Licence relating to the SKYCITY casinos in Queenstown and Hamilton continue in effect.

1.8 The revocation of the above conditions and specification of the new conditions attached to this Decision shall take immediate effect from the date of notification of this Decision.

2. FURTHER SUBMISSIONS

2.1 A number of parties repeated their original submissions on the Commission's original proposal as notified to parties on 29 July 2005. The Commission considered these submissions, but its views on the specific matters are unaltered for the reasons set out in its Interim Decision. The Commission does not set out again the analysis and reasoning contained in its Interim Decision (to which reference should be made on those issues) and, in this Final Decision, is concerned principally with recording and addressing further submissions on the amendments to the proposed draft conditions notified in its Interim Decision.

Minor amendments accepted

2.2 The Commission has decided to adopt the following, primarily technical, amendments proposed to SCML's draft operator's licence:

2.3 Heading – The Commission has clarified that the conditions relate to SCML's Auckland venue, as SCML requested, by adding a heading.

2.4 Condition 4 – SCML amendment to the definition of Gambling Area.

2.5 Condition 16 – CCL amendment to refer to conditions 13, 14 and 15.

2.6 Condition 41

- The Secretary's amendment to delete sub-paragraph (a) and insert "provision of security and surveillance services" as a new sub-paragraph (e).
- PGF's amendment to refer to condition 40.

Minor amendments declined

2.7 The Commission declined to adopt the amendment proposed by SCML to the definition of Casino Venue in condition 4 of SCML's draft operator's licence. The suggested reference to the casino venue licence held by SCAL would make more difficult identification of the specific licence document in which the Casino Venue is described.

2.8 The Commission also declined to amend condition 19 of SCML's operator's licence, as sought by CCL. The Commission considers that the condition, as drafted, does not impose an obligation to exceed the Surveillance Standard.

Substantive amendments

2.9 The following, more major issues, were raised by submitters:

General

(a) SCML and CCL submitted that proposed changes to conditions 5, 10 and 24(c)(ii) and (e) of SCML's draft operator's licence did not comply with section 140 requirements, and needed to be renotified.

Venue licence

(b) SCAL proposed that additional areas on Levels 2 and 3 should be excluded from the approval and notification requirements set out in conditions 6 and 7. PGF expressed a preference for all proposed alterations being approved by the Commission.

(c) SCAL opposed the requirement for it to publish a list of unsuccessful applicants for Trust funding under condition 16.

(d) SCAL sought the deletion of condition 22 (relating to bank account arrangements) and a consequential amendment of condition 23.

Operator's licence

(e) SCML, CCL and the Secretary opposed the Commission's proposed amendment to condition 5, requiring that the Licence Holder not permit a player to play more than one gaming machine at a time. PGF supported the proposed amendment.

(f) SCML and CCL opposed the proposed amendment to condition 10, requiring the Licence Holder to obtain Commission approval prior to the introduction into the Gambling Area of changes to table game rules which create new wagering opportunities.

(g) SCML proposed that condition 11 be amended, to provide the Executive Director with delegated authority to approve changes to floor layouts.

(h) MoH and PGF opposed the Commission's proposed amendment to condition 14, to provide the Commission with discretion to approve the use of non-cash dispensing mobile EFTPOS terminals in the Gambling Area. SCML supported the amendment, with CCL submitting that the Commission should also be able to approve mobile cash-dispensing terminals in the Gambling Area.

(i) SCML and CCL sought further clarification in condition 20 of the circumstances in which the prior approval of the Commission was required for the introduction of new surveillance technology.

(j) SCML and CCL opposed proposed condition 24(c)(ii) and the reference to research based indicators, with PGF supporting the proposed condition.

(k) SCML and CCL opposed the reference to limitation programmes in condition 24(e).

(l) GH and PGF proposed that condition 27 be amended to specify minimum reporting requirements which enabled the Commission to assess how well the Host Responsibility Programme ("**Programme**") is being delivered, and outcomes achieved.

(m) SCML raised concerns relating to Annex A and difficulties recording what electronic aids and enhancements are in the casino.

These matters are addressed in turn.

3. NOTIFICATION REQUIREMENTS UNDER SECTION 140

3.1 Section 140 requires notice by the Commission of proposed amendments, including the reason for an amendment, and the decision-making procedure to be followed by the Commission. SCML and CCL contend that reasons were not provided by the Commission in its Interim Decision for the proposed changes in conditions 5, 10 and 24(c)(ii) and (e) and that, accordingly, the notification process must be recommenced before the amendments can be made.

3.2 The Commission decided not to proceed with the proposed amendments to conditions 5 and 24(c)(ii) for reasons unconnected with this objection. Accordingly, the Commission has had to consider the issue raised by SCML and CCL in relation only to amendments to conditions 10 and 24(e) of SCML's operator's licence. The Commission has considered first, whether the changes to conditions 10 and 24(e) are of sufficient magnitude to require recommencement of the notification process and secondly, if so, whether the parties had been adequately notified of the changes to comply with section 140.

3.3 In its submissions, SCML cited *McInnes v Minister of Transport* [2001] 3 NZLR 11 (CA). The decision is authority for the proposition that, if, following a consultation process, the decision-maker modifies the original proposal, he or she is not ordinarily required to recommence that process by notifying the resulting change and seeking new submissions. Such a course of action would only be required if the proposal were so transformed as to be a completely new proposal. The Court of Appeal observed that whether the change is so significant as to require the process to be recommenced is a matter of fact and degree.

3.4 The Commission has considered, in sections 8 and 13 (below), whether the proposed changes to conditions 10 and 24(e) are within the scope of the conditions originally notified and concluded that they are, for reasons given subsequently. It considers that the changes are not so fundamental as to require recommencement of the section 140 process.

3.5 In the alternative, the Commission has concluded that adequate notice of those changes was given in any event. The notification and consultation process adopted by the Commission was lengthy, more extensive and more consultative than the minimum requirements of section 140(3). The interested parties were not permitted simply to lodge written submissions; the notified process covered the receipt of written submissions from all parties, the distribution of the submissions received to all other parties, an oral hearing to which all submitters were invited, for the express purpose, among others, of responding to the submissions and suggestions of the other parties. Virtually all parties involved suggested changes to the draft conditions in their submissions, including SCML and CCL. At the hearing all parties made submissions on the proposals for changes made by others. Changes to the draft conditions from the notified set to the Interim Decision set arose from the submissions made in writing prior to the hearing and/or at the hearing.

3.6 In addition to its Interim Decision, supplementary notice of reasons for the changes to conditions 10 and 24(e) was provided by the Commission by distribution of the written submissions of parties. The amendment to condition 10 was proposed by the Secretary in written submissions, dated 21 September 2005. Those submissions were circulated to all parties together with independent legal advice obtained by the Commission on condition 10. The proposed amendment was also discussed at the Commission's hearing on 24 November 2005, with the Secretary and counsel for SKYCITY expressing contrary views. Because of the extent to which the changes in question were signalled in written submissions circulated prior to the oral hearing, and in discussion at the hearing, the Commission considers that section 140 has been complied with in the event that it was necessary to do so.

3.7 The Commission decided not to recommence the notification process in respect of the changes to conditions 10 and 24(e).

4. CONDITIONS 6 AND 7 - DESIGN AND CONSTRUCTION CHANGES

4.1 SCAL submitted that there are a number of areas on Levels 2 and 3, in addition to the Theatre, in which the Commission has little or no regulatory interest in terms of construction changes. The areas identified by SCAL included Fortuna Buffet, Atrium Bar, Blend Café and dining area, Bar 3 and back of house areas on Level 3 used by staff.

4.2 SCAL proposed amendments to condition 6(a) and 7 to broaden the scope of specified areas that are exempt from the requirement to notify and/or obtain approval from the Commission. It also proposed a proviso, requiring approval to be obtained if construction or design changes to any of the excluded areas might impact on matters set out in condition 7. With this proviso, the Commission was satisfied that it was unnecessary to impose a general requirement for notification and/or approval of changes to the additional areas identified by SCAL.

4.3 Notwithstanding the PGF submission, the Commission decided to retain the more streamlined approval process proposed in the Interim Decision. The Commission consults with interested parties, as appropriate, in relation to approval applications before it.

4.4 In summary, the Commission amended conditions 6(a) and 7 of the SCAL licence, to exclude additional areas from the notification and approval requirements set out there.

5. CONDITION 15 - INDEPENDENT CHARITABLE TRUST

5.1 SCAL submitted that it should not be required in condition 15 of the SCAL licence to publish a list of unsuccessful applicants for Trust funding. In doing so, it drew a distinction between class 4 operators and casinos. It was noted that class 4 corporate societies conduct gambling mainly to distribute net proceeds to the community, and are accountable under the terms of their licences to ensure the proper distribution of the same. This contrasted with casino licence holders, who are merely required under the terms of their licences to pay a portion of net profits direct to an independent trust. It was submitted that the publication requirement should relate only to payments made by licence holders and not to actions and decisions made by independent trustees. SCML stated that the publication of unsuccessful applicants for funding was likely to have negative connotations for the Trust.

5.2 The Commission acknowledges that, unlike a class 4 corporate society, the SKYCITY Trust is not itself a licence holder. It also accepts that, because a class 4 licence holder is required to do something, it does not necessarily follow that a casino licence holder should be required to do the same.

5.3 The proposed publication requirement needs to be considered on its merits. The Act has as a purpose to "ensure that money from gambling benefits the community". The Commission has a legitimate and continuing interest in seeing that the licence conditions relating to the Trust are appropriate for ensuring that the funds intended to benefit the community do so.

5.4 SCAL takes no issue with the proposal that it should publish a list of recipients; its objection is to the requirement to publish a list of unsuccessful applicants for funding. SCAL suggests that it would be sufficient for the Commission to receive this information.

5.5 While the Commission considers that the purpose of the Act could have been achieved by the information being provided to a responsible authority who assumes the task of checking that money from gambling benefits the community, the past practice of the Licence Holder has been to publish the overall amount of money contributed by it to the Trust and to identify recipients. Logically, if publication of the sum paid and the recipients is in the public interest, so too would be publication of the list of disappointed applicants. Without this information, it would be difficult for the wider community to assess the success of the Trust arrangements in ensuring that the community benefited appropriately. The Commission considers that the requirement to publish the more balanced picture proposed is in the public interest and will assist in ensuring that there is continuing confidence that the Trust arrangements meet the purposes of the Act.

5.6 The Commission has retained the proposed wording of condition 16.

6. CONDITIONS 22 AND 23 – BANK ACCOUNT ARRANGEMENTS

6.1 The Commission considers that the SCAL proposed amendments have obvious merit. The banking arrangements approved by the Authority in clause 7 of the Management Agreement between SCAL and SCML, dated 26 May 1998, appear to supersede condition 22. SCAL advises that it does not maintain a bank account for banking transactions relating to the operation of the casino. Instead, pursuant to the Management Agreement, all transactions relating to the operation of the casino are banked into an account kept and maintained by SCML, the operator. It is appropriate that licence conditions should accurately reflect current, approved, circumstances.

6.2 Section 140, however, prevents the changes proposed by SCAL being adopted as part of this Final Decision. The Commission therefore, and for the reasons set out above, formally notifies parties of its proposal to delete condition 22, and amend condition 23, consequentially, by deleting the word "overseas". The Commission invites any party to make submissions on these proposed amendments within 20 working days after the date of notification of this Final Decision.

6.3 The Commission has retained, for the present, conditions 22 and 23 unamended.

7. CONDITION 5 – GAMING MACHINES

7.1 SCML, CCL and the Secretary opposed the proposed amendment to condition 5 of SCML's operator's licence to restrict gaming machines to one player. The Secretary submitted that:

(a) the Department is responsible for making rules for play on gaming machines;

(b) there had been inadequate consultation on the proposal; and

(c) there may be factors other than harm minimisation which need to be considered.

7.2 SCML and CCL submitted that:

(a) the proposal needed to be renotified;

(b) it was unreasonable to impose the compliance requirement on the Licence Holder; and

(c) that the matter was covered, in part, by the current Game Rules, and that any amendment was appropriately addressed in this context.

7.3 PGF supported the amendment proposed by the Commission.

7.4 The Commission decided that further consideration of the merits of the proposal was required, and that this was best done by the Secretary, as appropriate, in the context of the Game Rules rather than in licence conditions.

7.5 The Commission deleted the proposed amendment to condition 5 accordingly.

8. CONDITION 10 – APPROVAL OF ELECTRONIC AIDS, ENHANCEMENTS AND INTRODUCTION OF NEW WAGERING OPPORTUNITIES

8.1 SCML submitted that implementation of condition 10 would be problematic because of the need to create an inventory of existing electronic aids and enhancements and approved wagering options in the casino. SCML and CCL opposed the proposed amendment to condition 10, to refer to variations to Game Rules, on the basis that this was a new proposal requiring renotification. SCML repeated submissions made by it at the oral hearing, namely that the Commission lacked power to approve the introduction of changes to Game Rules, this being within the jurisdiction of the Secretary.

8.2 The Commission considers that the additional requirement for it to approve the use of table games amended by Game Rules is, conceptually, a logical extension of the principle underlying the original proposal as follows:

(a) The Commission makes changes to game mix according to its assessment of opportunity. It assumes that the games can be played according to the rules and equipment then installed.

(b) Changes in Game Rules are theoretically capable of affecting opportunity at the margin in the same way that electronic versions, aids or enhancements might.

(c) Controlling deployment separately from approval of a device or rule change enables changes to be approved by the Secretary without the need to consider opportunity and permits the introduction of changes which affect opportunity in conjunction with other offsetting changes.

8.3 The Commission considers that SCML and CCL were notified of the change, the proposal having been raised by the Secretary in written submissions circulated to all parties, and discussed at the oral hearing (see paragraph 3.6 above).

8.4 PGF submitted that the burden of proof should lie with the applicant to show that a new product will not result in increased opportunities, and that the problem gambling sector should have the opportunity to comment on any proposed introduction of electronic versions of table games, electronic aids and enhancements. The Commission agrees that the onus is on a casino applicant to show that a proposal does not increase opportunities for casino gambling, with the Commission being required to be satisfied on this point. The Commission consults with interested parties as required under the Act. No amendment is required accordingly.

8.5 The Commission has made a minor amendment to condition 10 to clarify that its approval is required prior to the introduction into the casino of changes to table game rules which create new wagering opportunities.

9. CONDITION 11 – FLOOR LAYOUTS

9.1 The Commission declined to accept SCML's proposed amendment, to provide the Executive Director with powers to approve floor layouts. The Commission considers that approval of floor layouts is a power appropriately exercised by the Commission.

10. CONDITION 14 – NON-CASH DISPENSING MOBILE EFTPOS TERMINALS

10.1 MoH opposed the amendment of condition 14 to provide the Commission with discretion to approve non-cash dispensing mobile EFTPOS terminals in the Gambling Area, preferring that the prohibition in its original proposal be retained. MoH submitted that the introduction of non-cash dispensing terminals was inconsistent with harm prevention and minimisation approaches, and that the requirement to take a break for food and beverage was beneficial, likening it to circumstances where smokers were required to take a break away from machines and tables to smoke. The provision of non-cash dispensing mobile EFTPOS, MoH submitted, would encourage continual play. The MoH could not foresee any circumstances where it would be appropriate for the Commission to approve such devices.

10.2 PGF opposed the introduction of the discretion on similar grounds.

10.3 SCML supported the change.

10.4 The Commission decided, by a majority, to reject the MoH and PGF submissions and retain the draft condition as proposed in the Interim Decision. In exercising the discretion which it has retained, the Commission expects that the matters raised by MoH and PGF would need to be addressed satisfactorily and that approvals may not be easily obtained.

10.5 The Commission has made no further change to condition 14.

11. CONDITION 20 - SURVEILLANCE

11.1 The Commission consulted informally with SCML and the Secretary on the wording of condition 20, and has amended it to clarify the circumstances in which the Licence Holder is required to obtain approval of new surveillance technology.

12. CONDITION 24(c)(ii) – HOST RESPONSIBILITY: RESEARCH BASED INDICATORS

12.1 SCML submitted that the requirement to include "research based indicators of problem gambling in the gambling venue" in its policy for identifying problem gamblers was a new proposal, requiring renotification, and was unclear.

12.2 PGF supported 24(c)(ii). It stated that it wanted to know what the indicators were, the sources for them, and information on how they are used.

12.3 The reference to "research based indicators" was inserted at the suggestion of the Secretary. It is understood that the Secretary sought an outcome whereby casino operators work with local or national experts to devise venue-based indicators of problem gambling that, in general terms, are considered by leading researchers, practitioners and regulators to be the best available. While appreciating the reasons for the proposal, the Commission agrees with SCML that the words create uncertainty and may unnecessarily give rise to issues of whether indicators are appropriately research based and the validity of research used to establish indicators.

12.4 The Commission has decided to delete the requirement for research based indicators to refer, more simply, to the need to include, in policies for identifying problem gamblers, indicators of problem gambling at the venue.

13. CONDITION 24(e) – HOST RESPONSIBILITY: REFERENCE TO LIMITATION PROGRAMMES

13.1 SCML submitted that the reference to "limitation programmes" in 24(e) should be deleted as this was a new proposal, requiring renotification, and was uncertain and ambiguous in scope.

13.2 Condition 24(e) was amended in conjunction with the Commission's decision to delete condition 24(g), requiring that the Programme provide for precommitment cards, on request, for current or previously excluded problem gamblers or clients. It was recognised in the Interim Decision that this requirement was too explicitly prescriptive, but that it was appropriate to provide in 24(e) a platform for future work in assisting at risk and other customers to manage their own expenditure and level of gambling activity. Condition 24(g) was removed in favour of a more general and less specific description of limitation in 24(e). "Limitation" is clearly closely related to "exclusion" meaning that the Programme should address the possibility of patrons limiting their gambling as well as total exclusion. The change is a minor modification to what was previously proposed and is not a completely new proposal requiring recommencement of the section 140 procedure.

13.3 The Commission makes no change to condition 24(e).

14. CONDITION 27 - REPORTING

14.1 GH and PGF submitted that condition 27 should be amended to require appropriate levels of recordkeeping, and to specify minimum reporting requirements which enable the Commission to assess how well the Programme is being delivered and what outcomes are achieved. It was submitted that the operator should be required to report on numbers of interventions, including counts of exclusions, evictions, observations and approaches.

14.2 As set out in its Interim Decision, the purpose of condition 24 is to provide a checklist of matters which the Commission would expect to see addressed in the Programme. Ongoing reporting requirements will be established in the context of the Commission's review of the Programme. It is anticipated that the Commission will wish to review the effectiveness of the Programme and the outcomes achieved. At this stage, the Commission did not consider it necessary to amend condition 27 further to be able to achieve this.

14.3 The Commission decided to extend the time when the review would occur until October 2006 to allow SCML adequate time to review and revise its Programme in terms of the new licence requirements.

15. ANNEX A – GAME MIX

15.1 SCML submitted that it was too difficult to record what electronic devices were in the casino in Annex A. It was noted that Annex A did not refer to shufflers on Black Jack or other tables in the casino.

15.2 The Commission has amended Annex A to record by way of footnote that, in addition to shufflers on Poker tables, SCML is able to use continuous shufflers on up to 50 percent of open Black Jack tables, as approved by the Authority on 30 May 2001. The Commission is aware that automatic shufflers are currently used on Caribbean Stud Poker and Baccarat tables. The Commission expects SCML to apply for the continuing use of these in due course.

15.3 CCL submitted that there should be no requirement to provide advance notification of intention to change game mixes, and this should occur only when the game mix changes have occurred. For reasons stated in its Interim Decision, the Commission considers that control of game mix is critical to its ability to control potential increases in opportunities for casino gambling. Player spaces, are for example directly or indirectly (through game rules) controlled through game mix.

15.4 Annex A has been updated to reflect the current approvals for automatic shufflers.

16. DECISION

16.1 This Decision revokes the conditions attached to the Casino Premises Licence issued to Sky Tower Casino Limited dated 24 April 1995, including all variations and additions to the conditions made by the Authority or the Commission, and specifies in substitution the new conditions **attached** to this Decision marked "Schedule – Conditions".

16.2 This Decision also revokes the conditions attached to the Casino Operator's Licence issued to Sky City Casino Management Limited dated 7 May 1998 headed "Conditions Attached to Casino Operator's Licence: Operation of Casino at Wellesley, Federal, Victoria and Hobson Streets, Auckland", including all variations and additions to the conditions made by the Authority or the Commission. It specifies in substitution the new conditions **attached** to this Decision marked with the same heading.

16.3 The revocation of the above conditions and specification of the new conditions attached to this Decision shall take immediate effect from the date of notification of this Decision.

16.4 The Commission notifies parties of its proposal to delete condition 22 of SCAL's venue licence, and to amend condition 23 by deleting the word "overseas", for the reasons set out in section 6 above. The Commission invites any party to make submissions on these proposed amendments within 20 working days of the date of notification of this Decision. The Commission will consider written submissions received by it before deciding and notifying parties of its decision on the proposal.

GAMBLING COMMISSION

Peter Chin
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

27 March 2006

SCHEDULE - CONDITIONS

Preamble

1. The following conditions apply to the Casino Venue.

2. The Licence Holder must comply with these conditions. Failure to do so could result in the suspension or cancellation of this Licence.

Interpretation

3. Words and expressions in these conditions shall have the same meaning as defined in the Gambling Act 2003.

4. In these conditions:

Act means the Gambling Act 2003.

Authority means the Casino Control Authority.

Casino Venue means the area defined as constituting the casino premises in this Licence.

Commission means the Gambling Commission.

Deed of Trust means the undated Deed of Charitable Trust concluded in June 1997 settled by Harrah's SKY CITY Limited.

Executive Director means the Executive Director of the Commission.

Gambling Area means that part of the Casino Venue designated by the Commission pursuant to condition 9 where casino gambling is permitted by the Commission.

Licence Holder means SKYCITY Auckland Limited.

Secretary means the Secretary for Internal Affairs.

Surveillance Standard means the Surveillance Policy describing the required standard, type, operation and installation of surveillance facilities, approved by the Authority with effect from 5 December 2003, as may be substituted or amended by the Commission from time to time.

Design and Construction

5. The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Levels 2 and 3 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 Levels 2 or 3 of 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 2 and 3, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, 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 the exterior of the Casino Venue.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 2 and 3, including the Gambling Area (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b) and (c).

7. The Licence Holder must notify the Executive Director of any proposed changes to the construction or design of Levels 2 and 3, including the Gambling Area but excluding SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, 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 the street or other public areas outside the Casino Venue;

(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.

Gambling Area

9. The Gambling Area within the Casino Venue comprises the areas specified in plans marked "A" and "B" dated 22 October 2004.

General specifications for the soft count room facility

10. The Licence Holder shall ensure that the soft count room is located in a secure area connected to the cashier's cage and shall, as a minimum requirement, provide the following:

(a) effective electronic surveillance in accordance with the Surveillance Standard;

(b) an alarm device connected to the entrance of the count room which signals to the security/surveillance department whenever the door is opened;

(c) a telephone link;

(d) a count table constructed of transparent material with clear visibility through to the floor;

(e) an area within, or with access from, the count room to house an enclosed cabinet or trolley(s) with a separately keyed double locking system for the storage of drop boxes.

General specifications for the hard count room facility

11. The Licence Holder shall ensure that the hard count room is located in a secure area and shall, as a minimum requirement, provide the following:

(a) effective electronic surveillance in accordance with the Surveillance Standard;

(b) an alarm device connected to the entrance of the count room which signals to the security/surveillance department whenever the door is opened;

(c) a telephone link;

(d) a coin storage area with a double lock system with access from the count room while still inside the secured area.

General specifications for cage/chip bank facilities

12. The Licence Holder shall maintain at least one principal cashiering facility on each level of the gaming floor which is clearly visible to patrons. Each such cashiering facility shall as a minimum requirement include the following:

(a) accommodation for chip bank cashiers and general cashiers (which shall be physically separate unless the Commission approves otherwise);

(b) storage facilities for cage inventory;

(c) a separate locked compartment for storage of chips and plaques held in reserve and not used for active gaming in at least one facility;

(d) manually triggered and automatic silent alarm systems connected directly to monitor rooms of the security and surveillance departments; and

(e) interconnect door entry and exit system (man trap) which will not permit a person to pass through the second door until the first door is securely locked.

13. The approval of the Commission is required for the construction and relocation of cashiering facilities additional to the principal facility in other parts of the Gambling Area to service dedicated areas or rooms. Any such additional facilities must comply with the surveillance equipment requirements set out in the Surveillance Standard and be fitted with manually triggered and automatic silent alarm systems connected to the security/surveillance department.

General specifications for Inspectors/Police facilities

14. The Licence Holder shall provide facilities within the Casino Venue for the use of Gambling Inspectors and the Police as directed by the Commission. Before issuing any such direction, the Commission shall consult with the Licence Holder and the Department of Internal Affairs and/or the New Zealand Police (as applicable) and invite submissions from each party in relation to any proposal.

Independent Charitable Trust

15. The Licence Holder shall financially support the Independent Charitable Trust established by the Deed of Trust. The Licence Holder shall pay to the Trust, in respect of each full year of casino operations, not less than 2.5% of the net profit after tax from the on-site businesses of the Casino Venue and conjunct facilities including the Sky Tower, hotel facilities and the Convention Centre opposite the Casino Venue, such payment in any one year never to be less than $500,000. The Licence Holder is required to provide annually to the Commission an audited statement certifying the amount constituting 2.5% of the net profit after tax from the on-site businesses of the Casino Venue and conjunct facilities, the amount paid by the Licence Holder to the Trust, and confirming that payment by the Licence Holder to the Trust has been made in accordance with condition 15.

16. The Licence Holder is required to ask the Trust on an annual basis to provide a list of persons granted funding for the previous year and in what amount, and a list of unsuccessful applicants for funding. The Licence Holder is required to publish annually the amount paid to the Trust, and the information provided to it by the Trust relating to the allocation of funds, as specified in this condition.

Notification requirements

17. The Licence Holder shall notify the Commission and the Secretary in writing as soon as possible of any change in the state of affairs of the Licence Holder which has a significant bearing on the holding of the Casino Venue licence, including any person ceasing to be an associated person of the Licence Holder.

18. The Licence Holder, immediately on becoming aware of such an occurrence, shall notify the Commission and Secretary in writing if the Licence Holder or an associated person of the Licence Holder is involved in any:

    (a) conviction for an offence involving dishonesty;

    (b) censure or disciplinary action by a professional body for ethical misconduct;

    (c) censure in any way in relation to a casino in another jurisdiction;

    (d) current investigation (other than routine or periodical inspections) by any governmental or statutory body; and

    (e) bankruptcy, receivership or liquidation.

Casino Agreement

19. The Licence Holder shall not permit any person to operate the Casino otherwise than in accordance with the terms of the approved Management Agreement between the Licence Holder and SKYCITY Casino Management Limited and others dated 26 May 1998, as varied by the Variation to Management Agreement dated 13 November 2001, or such variation thereof or further Casino Agreement as may from time to time be approved by the Commission.

Audit

20. The Commission may at any time request access to the Licence Holder's internal audit information or institute an audit of the Licence Holder's Casino business.

21. The Licence Holder shall submit for the approval of the Commission the name of the person or body of persons appointed from time to time by the Licence Holder as Auditor to audit the Casino business. The approval of the Commission shall be revocable in the discretion of the Commission and shall be subject to such conditions as the Commission from time to time imposes.

Bank accounts

22. 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.

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.

Provision of information

24. The Licence Holder shall, within such period as the Commission may require, provide to the Commission, or to any person authorised by the Commission to receive the same, such reports or other information as may be specified by the Commission relating to:

(a) the operations of the Licence Holder or any entity or person associated with the Licence Holder;

(b) the operation of the Casino; or

(c) any associated person of the Licence Holder, being information in the possession of the Licence Holder, as may be specified by the Commission in writing from time to time, within such period as the Commission may require.

25. The Licence Holder shall allow the Commission or staff of the Commission Secretariat, or any other person authorised by the Commission, to enter and remain in any part of the Casino Venue at any time for the purpose of his or her official duties under the Act.

Address for service

26. The Licence Holder shall file with the Commission an address in New Zealand for the service of notices upon it.

27. The Licence Holder may, by notice given to the Commission, change its address for the service of notices.

CONDITIONS ATTACHED TO CASINO OPERATOR'S LICENCE: OPERATION OF CASINO AT WELLESLEY, FEDERAL, VICTORIA AND HOBSON STREETS, AUCKLAND

Preamble

1. The following conditions apply to the operation of the Casino Venue by the Licence Holder.

2. The Licence Holder must comply with these conditions. Failure to do so could result in the suspension or cancellation of this Licence.

Interpretation

3. Words and expressions in these conditions shall have the same meaning as defined in the Gambling Act 2003.

4. In these conditions:

Act means the Gambling Act 2003.

Authority means the Casino Control Authority.

Casino Venue shall have the same meaning as defined in condition 4 of the casino premises licence issued to Sky Tower Casino Limited and dated 24 April 1995.

Commission means the Gambling Commission.

Gambling Area means that part of the Casino Venue specified in condition 9 of the venue licence held by SKYCITY Auckland Limited.

Licence Holder means SKYCITY Casino Management Limited.

Secretary means the Secretary for Internal Affairs.

Surveillance Standard means the Surveillance Policy describing the required standard, type, operation and installation of surveillance facilities, approved by the Authority with effect from 5 December 2003, as may be substituted or amended by the Commission from time to time.

5. The number of gaming machines in the Casino shall not exceed 1,647. Each terminal or player station of a multi-terminal or multi-player gaming machine shall be treated as one gaming machine.

6. The number of gaming tables in the Gambling Area shall not exceed 110.

7. The ratio of gaming machines to gaming tables in the Gambling Area shall not exceed 15 to 1, except with the approval of the Commission.

8. At least two table games shall be open for play when the Casino is operating.

9. The Licence Holder may operate on casino gaming tables the game types and game mix(es) specified in Annex A attached to this Licence. The Licence Holder shall obtain the prior approval of the Commission for any change to the game types and/or game mixes specified.

10. The approval of the Commission is required prior to the introduction into the Gambling Area of any electronic version of the game types specified in condition 9 above or electronic aids or enhancements or changes to table game rules which create new wagering opportunities.

11. The Licence Holder shall operate in accordance with approved floor layouts showing the position of gaming tables and gaming machines. The Licence Holder shall obtain the approval of the Commission for new floor plans prior to relocating or installing tables or machines in positions not specified in approved floor layouts. When applying, the Licence Holder must submit fresh plans showing the floor layout for the Gambling Area and details of the proposed CCTV layout for the consideration of the Commission. Any change must comply with the Surveillance Standard.

ATMs, EFTPOS and like devices

12. A maximum of 10 automatic teller machines is permitted in the Casino Venue outside the Gambling Area.

13. The Licence Holder is prohibited from dispensing cash from EFTPOS and like devices in the Gambling Area unless approved by the Commission. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.

14. The Licence Holder is prohibited from using cash-dispensing mobile EFTPOS terminals or similar devices in the Gambling Area. It is prohibited from using non-cash dispensing mobile EFTPOS terminals or similar devices in the Gambling Area, unless approved by the Commission.

15. The Licence Holder is prohibited from dispensing more than $50 cash per transaction from EFTPOS terminals or like devices outside the Gambling Area and within the Casino Venue and must ensure that any cash withdrawals are contemporaneous with a purchase.

16. Subject to the restrictions specified in conditions 13, 14 and 15 above, EFTPOS terminals or like devices may be installed and removed by the Licence Holder within the Casino Venue.

17. The Licence Holder is required to notify the Commission if it moves ATMs in the Casino Venue or if it installs or moves non-cash dispensing EFTPOS terminals in the Gambling Area

Security and Surveillance

18. The Surveillance Standard may be substituted or amended by the Commission at the request of the Secretary, on an application by the Licence Holder, or at its own initiative. The Commission will seek submissions from the Licence Holder, the Secretary and any other affected person before deciding on a proposed substitution or amendment.

19. The Licence Holder shall provide security and surveillance equipment and facilities in the Gambling Area and surveillance areas which shall at all times meet or exceed the Surveillance Standard in whatever form is currently approved by the Commission. The Commission may at any time institute an audit or require the Licence Holder to report on the standard and/or quality of surveillance equipment to ensure it meets or exceeds the Surveillance Standard.

20. The Licence Holder shall obtain the approval of the Commission prior to the introduction into the Casino of new surveillance technology of a type not currently in operation in the casino. Camera upgrades that comply with the requirements of the Surveillance Standard do not require prior approval.

When applying for approval, the Licence Holder shall supply sufficient information to enable the Commission properly to assess the application under the Surveillance Standard. Information will include details relating to equipment type and operation, and the proposed location of equipment. The Licence Holder shall allow the Commission or staff of the Commission Secretariat, or any other person authorised by the Commission, to test any technology or equipment.

General specifications for cage/chip bank facilities

21. The Licence Holder shall maintain at least one principal cashiering facility on each level of the gaming floor which is clearly visible to patrons. Each such cashiering facility shall as a minimum requirement include the following:

    (a) accommodation for chip bank cashiers and general cashiers (which shall be physically separate unless the Commission approves otherwise);

(b) storage facilities for cage inventory;

(c) a separate locked compartment for storage of chips and plaques held in reserve and not used for active gaming in at least one facility;

(d) manually triggered and automatic silent alarm systems connected directly to monitor rooms of the security and surveillance departments; and

(e) interconnect door entry and exit system (man trap) which will not permit a person to pass through the second door until the first door is securely locked.

22. The approval of the Commission is required for the construction and relocation of cashiering facilities additional to the principal facility in other parts of the Gambling Area to service dedicated areas or rooms. Any such additional facilities must comply with the Surveillance Standard and be fitted with manually triggered and automatic silent alarm systems connected to the security/surveillance department.

Host Responsibility Programme

23. The Licence Holder shall ensure that the Casino is operated, whether by itself or pursuant to a casino agreement by another licensee, in compliance with the Statement on Host Responsibility and the Responsible Gambling Programme approved by the Authority on 1 December 2003, as amended in accordance with the procedure set out below.

24. The Statement and Programme shall be consistent with and impose no lesser requirement than specified in the Act or Regulations. The Programme shall address and not be limited to:

(a) the provision of information for customers relating to game rules, permissible bets and payment of winning bets pursuant to section 175 of the Act;

(b) the provision of signage, brochures and publications, and the effective display and distribution of the same, to inform gamblers of the odds of winning on gaming machines, how to gamble safely, the characteristics of problem gambling and the availability of counselling and other support services;

(c) a policy for identifying problem gamblers. This policy shall include, as a minimum, the following:

(i) an acceptable definition of problem gambling;

(ii) indicators of problem gambling in the gambling venue;

(iii) the steps to be taken by the Licence Holder in identifying actual or potential problem gamblers;

(d) the provision of staff training ;

(e) the provision of exclusion, self-exclusion and limitation programmes;

(f) assistance to casino employees with managing the potential for personal problem gambling;

(g) recognition of cultural differences amongst gamblers using the Casino, and the need to tailor delivery of host responsibility obligations to maximise effectiveness for customers;

(h) guidelines for responsible marketing and advertising of the Casino, including exterior signage, and restriction on jackpot advertising and branding pursuant to Regulations 9 and 10 of the Gambling (Harm Prevention and Minimisation) Regulations 2004;

(i) responsible practices in the conduct of promotions and inducements to gamble at the Casino;

(j) design of the Gambling Area to minimise problem gambling behaviour and to maximise the likelihood that episodes of problem gambling will be noticed and addressed by staff;

(k) promotion of the responsible consumption of alcohol, including provision of staff training in responsible service of alcohol;

(l) standards of dress and behaviour at the casino;

(m) liaison with community service organisations, patrons with gambling problems, and family members of patrons with gambling problems; and

(n) such other matters as the Commission may require.

25. The Licence Holder may amend the Programme to include appropriate improvements in the delivery of the existing programme and new host responsibility and responsible gambling initiatives.

26. The Licence Holder shall obtain the prior approval of the Commission for any amendment to the Statement or Programme that proposes to reduce or remove any host responsibility and responsible gambling initiative in the Statement or Programme.

27. The Licence Holder shall every six months report to the Commission on the implementation of the Statement and the Programme commencing on 1 October 2006. The Commission will review the Statement and the Programme every two years commencing in October 2006. It will consult with interested parties, as appropriate, and amend the Statement and the Programme as it determines, after giving the Licence Holder the opportunity to comment.

28. The Licence Holder will co-operate with the Commission in respect of any inquiry or investigation by the Commission to ensure that the operating procedures and practice of the Casino comply with the Statement and Programme.

29. The Licence Holder shall comply with the Advertising Standards Authority advertising code of practice for advertising, gambling, and any relevant regulations in respect of the advertising of the gaming activities at the Casino Venue.

Intoxicated Persons

30. The Licence Holder shall not permit an intoxicated person to gamble in the casino.

Notification requirements

31. The Licence Holder shall notify the Commission and the Secretary in writing as soon as possible of any change in the state of affairs of the Licence Holder which has a significant bearing on the holding of the Casino Operator's licence, including any person ceasing to be an associated person of the Licence Holder.

32. The Licence Holder, immediately on becoming aware of such an occurrence, shall notify the Commission and Secretary in writing if the Licence Holder or an associated person of the Licence Holder is involved in any:

(a) conviction for an offence involving dishonesty;

(b) censure or disciplinary action by a professional body for ethical misconduct;

(c) censure in any way in relation to a casino in another jurisdiction;

(d) current investigation (other than routine or periodical inspections) by any governmental or statutory body; and

(e) bankruptcy, receivership or liquidation.

Casino Agreement

33. The Licence Holder shall not permit any person to operate the Casino otherwise than in accordance with the terms of the approved Management Agreement between the Licence Holder and SKYCITY Auckland Limited and others dated 26 May 1998, as varied by the Variation to Management Agreement dated 13 November 2001, or such variation thereof or further Casino Agreement as may from time to time be approved by the Commission.

Audit

34. The Commission may at any time request access to the Licence Holder's internal audit information or institute an audit of the Licence Holder's Casino business.

35. The Licence Holder shall submit for the approval of the Commission the name of the person or body of persons appointed from time to time by the Licence Holder as Auditor to audit the Casino business. The approval of the Commission shall be revocable at the discretion of the Commission and shall be subject to such conditions as the Commission from time to time imposes.

Bank accounts

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.

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.

Provision of information

38. The Licence Holder shall, within such period as the Commission may require, provide to the Commission, or to any person authorised by the Commission to receive the same, such reports or other information as may be specified by the Commission relating to:

(a) the operations of the Licence Holder or any entity or person associated with the Licence Holder;

(b) the operation of the Casino; or

(c) any associated person of the Licence Holder, being information in the possession of the Licence Holder, as may be specified by the Commission in writing from time to time, within such period as the Commission may require.

39. The Licence Holder shall, if required by the Commission, submit for the approval of the Commission samples of gaming guides authorised for distribution to patrons, patron video tapes, films depicting casino play, and a submission stating the true odds, the house odds and house advantage on bets permitted in each authorised game.

Training

40. The Licence Holder shall, if required by the Commission, provide, for persons having, or who will have, functions in relation to any of the following capacities in the casino, training courses in the performance of those functions.

41. The capacities referred to in paragraph 40 are those relating to:

(a) counting money or chips derived from or used in gambling;

(b) moving money or chips derived from or used in gambling;

(c) buying or redeeming chips;

(d) operating, maintaining, constructing or repairing gambling equipment;

(e) the provision of security or surveillance services;

(f) supervising or managing any of the activities described in paragraphs (a) to (e).

42. The content, format and duration of such courses shall be from time to time approved by the Commission.

Entry

43. The Licence Holder shall allow the Commission or staff of the Commission Secretariat, or any other person authorised by the Commission, to enter and remain in any part of the Casino Venue at any time for the purpose of his or her official duties under the Act.

Address for service

44. The Licence Holder shall file with the Commission an address in New Zealand for the service of notices upon it.

45. The Licence Holder may, by notice given to the Commission, change its address for the service of notices.

ANNEX A

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

A.
- Black Jack/Pontoon – up to 44 games
- Roulette – up to 24 games
- Touchbet Roulette – 1 game with up to 14 player spaces
- Caribbean Stud Poker – up to 10 games
- Midi Baccarat – up to 17 games
- Mini Baccarat – up to 7 games
- Pai Gow – up to 4 games
- Tai Sai (Double Side) –1 game
- Tai Sai (Single Side) –1 game
- Money Wheel (Double Side) – 1 game

B.
- Black Jack/Pontoon – up to 42 games
- Roulette – up to 22 games
- Touchbet Roulette – 1 game with up to 14 player spaces
- Rapid Roulette – 1 game with up to 20 player spaces
- Caribbean Stud Poker – up to 8 games
- Midi Baccarat – up to 18 games
- Mini Baccarat – up to 7 games
- Pai Gow – up to 4 games
- Poker – up to 4 games with up to 10 player spaces
- Tai Sai (Double Side) – 1 game
- Tai Sai (Single Side) – 1 game
- Money Wheel (Double Side) – 1 game

C.
- Black Jack/Pontoon – up to 41 games
- Roulette – up to 22 games
- Touchbet Roulette – 1 game with up to 14 player spaces
- Rapid Roulette – 1 game with up to 20 player spaces
- Caribbean Stud Poker – up to 7 games
- Midi Baccarat – up to 18 games
- Mini Baccarat – up to 7 games
- Money Wheel (Double Side) – 1 game
- Pai Gow – up to 4 games
- Poker – up to 6 games with up to 10 player spaces
- Tai Sai (Single Side) – 1 game
- Tai Sai (Double Side) – 1 game

Notes

1. The Licence Holder is permitted to change between the game mixes specified in A, B and C subject to providing the Commission and the Inspectorate with a minimum of 5 working days notice in writing of its intention to do so.

2. The Licence Holder is permitted to operate automatic shufflers on:

    - the Poker tables specified in Game Mixes B and C; and

    - 50 percent of open Black Jack tables specified in Game Mixes A, B, and C.