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

INTERIM 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 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 the operator's licence held by SKYCITY Management Limited ("**SCML**") for SKYCITY Auckland casino, and to specify new conditions in substitution The initiative constituted a single proposal to specify, vary or revoke numerous conditions of the two existing licences (the "**proposal**").

1 2 SCAL, SCML, the Secretary of 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 proposal on 29 July 2005, and invited to make written submissions on it 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 proposes to specify the amended conditions for SCAL's and SCML's licences **attached** to this Interim Decision The draft conditions identify, in mark-up, changes from the original proposal notified to parties on 29 July 2005. Parties have until 10 February 2006 in which to make any written submissions on the changes (additions and deletions) proposed by the Commission

1.4 The Commission will consider any further written submissions received, and will reissue this decision in a final form, making such amendments to it and the attached conditions as it may consider appropriate The Commission's final decision will revoke the existing conditions of SCAL's venue licence and SCML's operator's licence, and specify new conditions with effect from a date to be specified by the Commission.

2. BACKGROUND TO PROPOSAL

2.1 From the commencement of the Commission's casino licensing functions in July 2004, it was evident that changes were required to casino licence conditions to deal with outdated references to the previous legislative regime, and to substitute references to the Casino Control Authority (the "**Authority**") with references to the Commission, thus enabling the Commission to assume approval powers formerly exercised under the licence conditions by the Authority.

2.2 As the work of the Commission progressed, it became clear to it that further amendments were required. From operators, it learned that the licences were issued via a competitive process that involved large applications being submitted to the Authority for approval The licence conditions introduced then were principally aimed at ensuring that casinos maintained the competitively derived conditions that applicants proposed in their applications. Operators and the Commission identified that a number of these conditions were obsolete, or could usefully be simplified.

2.3 At the same time, it became clear to the Commission, through the conduct of its business and informal consultation with operators and the Secretary, that a number of more detailed and practical issues relating to the future regulation of gambling activities required resolution in licence conditions. The Commission identified, in particular, that licence conditions did not include adequate mechanisms to enable it to discharge its functions under the Act, in particular to support the purpose of the Act, and to ensure that proposed activities did not give rise to increases in opportunities for casino gambling, as required by sections 11, 12 and 139(2)(d) of the Act.

2.4 When it notified parties of the proposal on 29 July 2005, the Commission stated that its reasons for initiating the proposed changes included:

(a) removing obsolete conditions in existing licence conditions (relating to matters no longer requiring to be regulated);

(b) including in licence conditions matters identified by the Commission as now requiring to be regulated in accordance with the Act; and

(c) clarifying the division of roles between the Secretary and the Commission in relation to the regulation of specific areas.

3. JURISDICTION

3.1 The Commission's jurisdiction to revoke, vary and specify licence conditions is set out in section 139 of the Gambling Act 2003 (the "**Act**") One of the Commission's functions, set out in section 224(1)(f), is to "specify the conditions for inclusion in casino licences or vary or revoke the conditions of casino licences". Casino licences are defined in section 4 to mean "a casino operator's licence or a casino venue licence".

3.2 The current SCAL and SCML licences were issued under the Casino Control Act 1990, the stated object of which was quite different from the current Act. As set out in section 5:

> The object of this Act is to establish a system for the licensing, supervision, and control of casinos with the aims of –
>
> (a) Promoting tourism, employment, and economic development generally; and
>
> (b) Ensuring that gaming in casinos is conducted honestly; and
>
> (c) Ensuring that the management and operation of casinos remains free from criminal influence or exploitation.

3.3 As provided in section 139(2)(a)-(c) of the 2003 Act, licence conditions must be consistent with the Act, and contribute to achieving its purposes and efficient and effective administration The purpose of the Act reflects a very different intent from the earlier legislation. As set out in section 3, the purpose of the Act is to:

> (a) control the growth of gambling; and
>
> (b) prevent and minimise the harm caused by gambling, including problem gambling; and
>
> (c) authorise some gambling and prohibit the rest; and

(d) facilitate responsible gambling; and

(e) ensure the integrity and fairness of games; and

(f) limit opportunities for crime or dishonesty associated with gambling; and

(g) ensure that money from gambling benefits the community; and

(h) facilitate community involvement in decisions about the provision of gambling.

3 4 In addition, the Act, in sections 10 to 12, prohibits new casinos and existing casinos from increasing the opportunities for casino gambling If the current conditions to a casino licence do not meet the requirements set out in section 139(2) or achieve the purpose of the Act or give effect to its various provisions, then it is the Commission's view that it can, and should, vary the licence conditions to achieve this.

3.5 At various stages of the consultation process, SCAL and SCML have argued that the existing licence conditions constitute valuable property rights with which the Commission cannot interfere. Given the changes in the legislation and the wording of section 139 of the Act, it is the Commission's view that casinos could have no legitimate expectation that there would be no material changes to their licence conditions following the commencement of the Act. If Parliament had intended to limit the Commission to making non-material changes to conditions, it would have said so. Section 13 of the Act provides that no compensation is payable by the Crown to any person for any loss or damage arising from the enactment or operation of sections 10-12 of the Act. This provision implicitly indicates that Parliament contemplated that the implementation of the section 11 prohibition would potentially affect rights. Casino licence holders, prior to the Act, were not constrained from growing their business by increasing the opportunities for casino gambling and the 1990 Act provided no basis to impose conditions having that effect The expectation ought to have been that tighter regulation of opportunities for casino gambling would follow the commencement of the 2003 Act

3 6 Sections 139 and 140 of the Act, relating to the specification, variation and revocation of casino licence conditions, and the procedures that apply, are set out below

3 7 Sections 139(1) of the Act provides that:

> 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:
>
> ...
>
> (d) on application by the holder of the casino licence;
>
> (e) on its own initiative or on the request of the Secretary.

3.8 Section 139(2) of the Act provides that:

> (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).

3.9 Section 140 of the Act sets out the procedure for specifying, varying or revoking casino licence conditions, as follows:

> **140 Procedure for specifying, varying, or revoking casino licence conditions**
>
> (1) The Gambling Commission must notify the holder of the relevant casino licence, the Secretary, and any other person who it considers is affected by a proposal to specify, vary, or revoke the conditions of a casino licence
>
> (2) Notification under subsection (1) must include –
>
> (a) the reason for the proposal; and
>
> (b) the procedure to be followed before the Gambling Commission makes a decision relating to the proposal
>
> (3) The holder of the casino licence, the Secretary, and any other person affected may make written submissions to the Gambling Commission concerning the proposal within 20 working days after the date of the notice under subsection (1) or within any longer period that the Gambling Commission allows
>
> (4) The Gambling Commission must consider any submissions made under subsection (3) and may, if it considers it appropriate, seek comment from the casino licence holder on the submissions received from the Secretary or other persons affected.
>
> (5) The Gambling Commission must notify the holder of the casino licence, the Secretary, and other persons affected of –
>
> (a) its decision concerning the proposal and the reasons for the decision; and
>
> (b) the right to appeal the decision and the process for an appeal.

4. PROCESS

4.1 The conditions attached to this decision have been developed following a lengthy consultation process conducted over the course of more than a year. Informal consultation with all casino operators, the Secretary, MoH and treatment providers preceded formal notification of the proposal on 29 July 2005, and involved the following steps:

(a) On 9 November 2004, the Commission advised all casino licence holders and the Secretary that the Commission intended to initiate a review of the Auckland licence conditions, and invited licence holders and the Secretary to a preliminary meeting to identify amendments which the Commission might initiate

(b) On 24 November 2004, the Secretariat convened a meeting of casino licence holders and the Secretary

(c) On 21 February 2005, the Commission circulated an Issues Paper and a preliminary redraft of the SCAL venue licence, for comment by casino licence holders and the Secretary.

(d) Substantive written submissions were received from SCAL and SCML, CCL, OCL, and the Secretary

(e) The Commission decided that the informal consultation process should be broadened to include other potentially affected persons, and on 31 May 2005 circulated the Issues Paper and preliminary redraft of the SCAL venue licence to the MoH, PGF and GH for comment, with substantive written submissions being received

(f) The Secretariat met with SCAL and SCML on 1 June 2005, the Secretary on 2 June 2005, and CCL on 28 June 2005 to discuss written submissions received.

4.2 The Commission prepared revised drafts for SCAL's venue licence and SCML's operator's licence having regard to the submissions made. In accordance with section 140 of the Act, on 29 July 2005 it formally notified the Licence Holders, the Secretary and other persons it considered affected of its proposal, seeking written submissions within 30 working days, by 9 September 2005.

4.3 The Commission Secretariat met with parties on the following occasions prior to the lodgement of written submissions to assist parties understanding of the proposal:

(a) SCML and SCAL on 17 August 2005;

(b) Department of Internal Affairs ("**DIA**") on 18 August 2005;

(c) GH on 24 August 2005;

(d) DCL on 29 August 2005;

(e) PGF on 5 September 2005.

4.4 The Secretariat offered to meet with CCL, but CCL did not consider this to be necessary

4.5 SCAL wrote to the Commission on 2 September 2005 complaining that the reasons given for condition 16 of SCAL's draft venue licence and conditions 15, 20, 24(a), (b), (c), (d), (e), (g), (h), (i) and (l) and 25 of SCML's draft operator's licence were inadequate. SCAL sought further information on these conditions and additional time within which to make submissions on them.

4.6 The Commission considered the notice of reasons to be adequate, but rather than debate the adequacy of notification, it provided to SCAL and all other parties on 7 September 2005 a statement of reasons for the proposed conditions identified by SCAL, and allowed an additional 20 working days, until 6 October 2005, within which to make submissions

4.7 SCAL wrote again to the Commission on 16 September 2005 expressing the view the statement of reasons did not constitute adequate compliance with section 140 but the complaint was unparticularised. As SCAL had not only received an additional written statement of reasons, as it requested, but had also had the benefit of extensive and detailed oral discussion with Commission staff members on earlier occasions, the Commission considers that, if SCAL regarded the statement of reasons to be inadequate, it could reasonably be expected to identify the respects in which the deficiency was thought to arise. SCAL lodged additional written submissions within the extended period provided.

4.8 All written submissions received were circulated on 27 September and 10 October 2005 to each of the parties who made written submissions

4.9 As a further part of the section 140 amendment process, the Commission convened an oral hearing on 24 November 2005. The purpose of the hearing was to supplement written submissions, and provide parties with the opportunity to comment on the submissions made by others. The hearing was attended by SCAL, SCML, CCL, the Secretary, MoH, PGF and GH. OCL did not wish to attend but was invited to make written submissions in reply in advance of the hearing, none being received.

5. PRELIMINARY MATTERS

5.1 No adverse written or oral submissions were made in relation to the following draft conditions in SCAL's venue licence: 4 (Definitions of Act, Authority, Commission, Deed of

Trust, Licence Holder), 12, 13, 18, 20, 21, 24(a), 25, 26, 27, and the following draft conditions in SCML's operator's licence: 4 (Act, Authority, Commission, Licence Holder), 9, 17, 18, 22, 23, 24(m)(n)(q), 26, 31, 33, 42, 43, 44 These conditions are therefore included in the conditions attached to this decision unamended.

5.2 Minor amendments were proposed by submitters in relation to a number of conditions The following, primarily technical, amendments are accepted by the Commission, and are reflected in the revised conditions:

Venue licence

- 4 – SCAL amendment from "In this Licence" to "In these conditions".
  – SCAL and CCL amendment to definition of Casino and Casino Venue.
  – SCAL amendment to "Secretary for Internal Affairs".
  – The Secretary's amendment to the definition of "Surveillance Standard"

- 8(a) – The Secretary's amendment in relation to gambling activity

- 8(b) – CCL amendments to the words "banks" and "storerooms".

- 9 – SCAL amendments to the description of the Gambling Area, with a minor adjustment, to read:

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

- 10(a) and 11 – SCAL amendment to delete the requirement to comply with Minimum Operating Standards.

- 14 – The Secretary's amendment, requiring the Commission to consult with the DIA and/or the New Zealand Police, when giving directions about facilities for those entities.

- 17 – The SCAL and CCL amendments to "associated person"

- 24 – The SCAL and CCL amendments

Operator's licence

- 4 – SCML and CCL amendment to the definition of Casino and Casino Venue
  – SCML amendment to "Secretary for Internal Affairs"
  – The Secretary's amendment to "Surveillance Standard"
  – SCML's amendment to the description of the Gambling Area, modified slightly

- 6 – PGF amendment to provide that a player is not permitted to play more than one gaming machine at a time. If Minimum Operating Standards for casinos are amended to address this matter, the Secretary may, if he considers it necessary, apply to amend condition 6.
- 7 – The Secretary's amendment to provide that 110 tables refers to the tables in the Gambling Area rather than the Venue
- 19 – The Secretary's amendment relating to compliance with the Surveillance Standard.
- 23 – Changing the name from Responsible Gaming Programme to Host Responsibility Programme, as proposed by CCL, PGF and GH.
- 30 – SCML and CCL amendments.
- 37 – SCML and CCL's amendments to 37, 37(b), and (c) relating to reporting.
- 40 – SCML proposal to align wording with section 158 of the Act.

5.3 A number of other minor amendments were proposed to the draft conditions that the Commission declines to accept. A number of these sought to alter existing licence conditions to which SCAL and SCML did not for the most part object. Proposed amendments which have not been incorporated include the following:

Venue licence

- 2 – SCAL and CCL amendments.
- 19 – CCL's proposed amendment.
- 22 and 23 – CCL's amendments.

Operator's licence

- 1 – CCL amendment
- 2 – SCML and CCL amendments
- 6 – The Secretary's amendment.
- 14 – SCML and CCL amendments.

- 21 – The Secretary's submission. Specifications for the cashiering facility are retained in both the venue and Operator's Licence as the condition encompasses structural and operational requirements.
- 27 – CCL's addition of the words "To the extent permitted by law."
- 28 – CCL amendment.
- 29 – CCL amendment
- 32 – CCL amendment.
- 34 – SCML amendment.
- 35 & 36 – CCL amendments.
- 38, 39 & 41 – SCML and CCL amendments.

6. KEY ISSUES

6.1 The Commission identified the following issues as being central to its decision. These issues, and the associated conditions, drew substantial written and oral submissions, with divergent views expressed, and were the main focus of the hearing. The key issues (and conditions) are as follows:

General

(a) The ability of the Commission to amend SCAL and SCML's licences (as distinct from the conditions). SCAL, SCML and CCL raised this issue.

Venue licence

(b) Design and construction (conditions 5-8 of the venue licence and condition 24(l) of the operator's licence). SCAL, the Secretary, CCL, PGF and MoH made submissions on these conditions.

(c) Requirements relating to the Independent Charitable Trust (conditions 15 and 16), and in particular the proposal that the Licence Holder be required to publish annually details relating to the distribution of funds. SCAL, CCL, PGF and MoH made submissions on this proposal.

Operator's licence

(d) The form of SCML's operator's licence, and its application to Auckland, Hamilton, and Queenstown casinos (condition 1) SCML and CCL made submissions on this issue.

(e) The ratio of gaming machines to gaming tables (condition 8). SCML, CCL, the Secretary, MoH and PGF made submissions.

(f) Specification of the game mix in licence conditions (condition 10) and the role of floor layout plans (condition 12) SCML, the Secretary, CCL and the PGF made submissions

(g) The requirement for the Commission to approve the introduction of electronic versions, electronic aids or enhancements (condition 11) SCML, the Secretary, CCL, MoH, PGF, and GH made submissions.

(h) Cash access, and in particular the proposed prohibition on the use of mobile EFTPOS terminals or similar devices in the Gambling Area (conditions 13-16). SCML, the Secretary, CCL, Wharf Casino, MoH and PGF made submissions.

(i) Surveillance, and in particular the requirement to obtain the prior approval of the Commission for the installation of specified surveillance facilities (condition 20) SCML, CCL, the Secretary and PGF made submissions.

(j) The scope of SCML's responsible gambling programme, and the Commission's oversight role in relation to the same (conditions 24 and 25). All parties made submissions

7. AMENDMENT OF SCAL AND SCML LICENCE

7.1 SCAL and SCML submitted that the Commission's powers under section 139 are limited to revoking, varying or specifying conditions set out in the Schedules to the existing SCAL and SCML licences. Counsel referred to the Privy Council case *Glenharrow Harrow Ltd v AG* [2005] 2 NZLR 289 in support of a distinction being drawn between a licence and conditions. Counsel for SCAL and SCML submitted that the Commission may not vary or reissue the documentary licences issued to SCAL and SCML as these constitute the original grant of rights made by the Authority. This position was supported by CCL.

7.2 Counsel for SCAL and SCML also stated that the proposed amendments to the SCAL and SCML licences were unnecessary, as section 122 of the Act provides that the existing venue and operator's licences became licences under the new Act, and must be treated as such Accordingly, there was no need to make the minor changes proposed.

7.3 The Commission's proposed changes did not amount to an alteration to the substantive grant of rights from the Authority and SCAL, SCML and CCL did not suggest otherwise The distinction between a licence and conditions of a licence is fully appreciated by the Commission. In the circumstances however, and having regard to the minor and inconsequential nature of the proposed changes, the Commission sees no necessity to proceed with the proposed changes or to decide whether it may reissue new documents reflecting the grant of rights.

7.4 No change will now be made to the licences, as distinct from the conditions, and the Commission will not alter or reissue the documentary licence. The existing SCAL and SCML licences are now included with the draft conditions, unamended

8. DESIGN AND CONSTRUCTION

8.1 Current conditions (set out below) require that the Commission approve all alterations or extensions in the Gambling Area and areas used for gambling related activities, and all changes to the casino complex as a whole which are not contemplated in the original application for SCAL's venue licence.

8.2 Condition I1 of the venue licence for SCAL (as amended by the Commission by decision GC03/04) provides that:

> The gaming area of the casino, areas in which money counting, surveillance, storage, and other activities related to the conduct and playing of games are carried on, and the facilities provided therein shall not be altered or extended in any way without the approval of the Commission

8.3 Condition A2 further provides that the casino complex shall be designed, developed, constructed, fitted out, commissioned for operation and operated generally in accordance with the application of the Licence Holder subject to such changes as the Authority has approved, and which the Commission may approve from time to time.

8.4 General specifications for physical layout are set out in condition A4 of SCAL's venue licence relating to the visibility of gaming activity, walkways within the casino, and provision of emergency power.

8.5 The draft conditions proposed by the Commission sought to narrow the circumstances in which it was necessary for the Licence Holder to obtain Commission approval for construction changes It proposed that approval should be obtained where the Licence Holder judged that alterations to the Casino Venue might affect any person's ability to comply with the Act, or when the bank is moved, external signage changed, or the visibility of patrons in the Gambling Area diminished

8 6 The requirement for approval was supplemented in the Commission's draft by additional constraints on the changes which could be made. Draft condition 8 required that gambling must not be visible from outside the Casino Venue, that emergency power must be available, and that any alterations must not impact on the integrity of games, security arrangements, effectiveness of harm minimisation measures, or increase opportunities for casino gambling.

8.7 The approach proposed by the Commission met with disagreement from all parties. SCAL and CCL submitted that draft conditions 6-8 did not provide adequate certainty and failed clearly to identify when prior approval must be obtained. SCAL and CCL proposed that no constraint should be placed on the ability of the Licence Holder to institute design and construction changes, subject only to the need to comply with the Act SCAL and CCL objected to draft condition 8(c)(iv) on the grounds that it imported a prohibition from the Act that was intended to serve a different purpose, inclusion also being unnecessary and selective. SCAL and SCML contended that the section 11 prohibition does not extend to design and construction changes and submitted that inclusion of 8(c)(iv) pre-empted the outcome of declaration proceedings brought by SCAL and SCML relating to the interpretation of sections 11 and 12 of the Act. The Secretary supported the deletion of condition 8(c)(iv) on the basis that it was unnecessary in light of sections 11 and 139 of the Act

8.8 The Secretary, PGF and MoH submitted that the Commission needs to retain regulatory oversight of construction changes, and had reservations about the Licence Holder being responsible for deciding when approval was needed, as views may differ on whether a proposal was consistent with the Act and its harm minimisation objectives. The PGF submitted that the Commission should (as it does now) approve all changes. The Secretary proposed that all changes in the Gambling Area should be approved by the Commission, and that outside the Gambling Area, the operator should, prior to undertaking changes, confirm with the Commission Secretariat whether approval was required The MoH submitted that prior approval should be obtained for the construction of ATMs and EFTPOS outside the Gambling Area, with SCAL and CCL stating that this was unnecessary and inconsistent with recent decisions of the Commission

8 9 It is common ground that conditions should, to the extent possible, clearly establish the obligations with which the Licence Holder is required to comply. One approach, reflected in current licence conditions, is to require Commission approval for all alterations SCAL and CCL, at the other end of the spectrum, maintained that the Act should provide the

only constraint on construction changes, with the Licence Holder responsible for determining whether or not proposed alterations achieved compliance. In terms of amendment of draft conditions 5-8, the options available to the Commission included:

(a) reverting to the status quo – which is what DIA (for the most part), MoH and PGF proposed;

(b) liberalising along the lines of the Commission's 29 July proposal, with some tidy up amendments;

(c) liberalising even further by being less specific (SCAL); and

(d) liberalising highly specifically – by producing a closed list of circumstances when approval must be obtained (CCL)

8.10 The Commission decided to take a middle course between options (a) and (b) It decided that approval should be obtained for all alterations to Levels 2 and 3 (including the Gambling Area but excluding SKYCITY Theatre), but proposes to adopt a streamlined approval process. As set out in amended conditions, the Licence Holder is required to notify the Executive Director of the Commission of all proposed alterations to Levels 2 and 3, excluding the SKYCITY Theatre. The Executive Director will have delegated authority to approve proposed changes (having consulted as he or she may consider appropriate). In circumstances where the Executive Director considers that a proposed alteration may affect the ability of the Licence Holder to comply with the Act or raises matters requiring consideration (as specified in conditions), the Executive Director will be required to refer the proposal to the Commission for a decision

8.11 The Commission has also made a number of tidy up changes to the draft conditions, including clarifying that the requirement for approval of banking facilities outside the Gambling Area excludes ATMs and EFTPOS, consistent with decisions GC07/05 and GC16/05. The Commission has also added a requirement to ensure that changes do not increase the risk of access to the Gambling Area by persons under 20, based on submissions made by PGF. The Commission has retained subclause 24(l) of SCML's operator's licence requiring the operator to consider design issues in the context of its Host Responsibility Programme Conditions 5-8 relate to the approval and notification mechanisms for proposed construction changes. Subclause 24(l) creates an obligation for the Licence Holder to positively consider how design of the Gambling Area can assist in minimising problem gambling behaviour.

8.12 In summary, the Commission proposes:

(a) retaining draft condition 5;

(b) deleting draft condition 6;

(c) amending condition 7 to require that approval be obtained for:

(i) all construction changes to Levels 2 and 3, including the Gambling Area and excluding SKYCITY Theatre;

(ii) construction or relocation of the bank outside the Gambling Area (excluding ATMs and EFTPOS); and

(iii) addition or alteration of exterior signage;

(d) inserting a new condition setting out a streamlined approval process, and identifying the matters to be considered by the Commission when deciding whether to approve a proposal;

(e) amending condition 8, including by the deletion of 8(c) Under the new condition 7 the Licence Holder is required to assess whether a proposal affects compliance by any person with the Act, including section 11; and

(f) retaining clause 24(l) of SCML's draft operator's licence.

9. REQUIREMENTS RELATING TO THE INDEPENDENT CHARITABLE TRUST

9.1 The wording of draft condition 15 was based on condition C1 of SCAL's existing venue licence, with two differences. First, the draft clarifies what is included in the term "conjunct facilities" Secondly, it requires the Licence Holder to publish annually the amount paid by SCAL to the Trust, the allocation by the Trust of funds (identifying persons granted funding and in what amount) and a list of unsuccessful applicants for funding. A purpose of the latter proposed change was to "ensure that money from gambling benefits the community" (section 3(g) of the Act)

9.2 The three issues raised by submitters in relation to condition 15 related to:

(a) the publication of information (SCAL, MoH, PGF, CCL);

(b) the level of SCAL's contribution to the Trust (SCAL, PGF); and

(c) the placement of condition 15 in the venue licence (CCL)

9.3 SCAL argued that the publication requirement was contrary to the independence of the Trust, and submitted that the Licence Holder had no ability under the Trust Deed to compel the Trust to supply it with the information specified

9.4 The MoH supported the publication requirement, it being considered by MoH to be a useful way to inform the community and encourage community awareness about the costs and benefits of gambling The PGF requested that condition 15 be amended to specify in greater detail the information required, for example to include statements as to the purpose of the funding (eg salary, equipment), the category of organisation (eg sports, arts, social services) and the district authority concerned

9.5 The Commission considers that the publication of the information specified will not compromise the independence of the Trust and its ability to decide on the allocation of funds It will, however, make more transparent the decisions of the Trust, which the Commission considers appropriate in the circumstances, particularly as class 4 operators are now subject to the same discipline. The Commission notes that the Licence Holder has previously forwarded to it information identifying the entities receiving grants and in what amount, and on this basis understands that the Trust may already voluntarily make available to the Licence Holder much, if not all, of the information specified in the draft condition

9.6 To avoid the technical difficulty raised by SCAL, the Commission proposes rewording condition 15, to require the Licence Holder to ask the Trust to provide the information specified and to publish the information provided as a result of the request. In the event that the Trust declined to provide the requested information (which seems unlikely in the light of past practice), the Commission may need to consider further variation of this condition at some time in the future

9.7 The PGF proposed that SCAL's payment to the Trust should be increased from 2.5% of the net profit after tax from the on-site businesses of the casino facilities to 5% of the net profit from the casino venue only, with a minimum contribution of $1 million. The PGF submitted that the Licence Holder's contribution to the Trust had been set at an inaugural level, and that this should be increased to take into account the fact that it was not required to construct an education room and undertake other initiatives specified in the original licence conditions This had freed up a resource.

9.8 SCAL countered that the original funding levels included a contribution to problem gambling treatment providers, for which SCAL is now levied separately. SCAL was asked by the Commission to compare what it paid prior to the levy and what it paid now SCAL advised that it is required to pay a problem gambling levy of 0.15% of profit, calculated and paid monthly It pays to the Trust 2.5% of the net profit after tax from all onsite business and conjunct facilities plus any unclaimed jackpots or found monies. The level of unclaimed jackpots and found monies fluctuates, with last year's contribution being approximately $150,000

9.9 SCAL advised the Commission that in 2004, it paid $2,735,384 to the Trust, being 2.5% of net profit from all on-site businesses and conjunct facilities In 2005, it paid $2,311,357 to the Trust (being 2.5% of net profit) It also paid (for the October to October calendar year) $1,998,515.90 for the problem gambling levy.

9.10 The Commission decided to retain the requirement for SCAL to fund the Trust at the same percentage of earnings It has also retained conditions 15 and 16 in the venue licence because the funding obligation relates to profits from on-site businesses throughout the Casino Venue and conjunct facilities, not just from casino operations. The Commission proposes adding a requirement for the Licence Holder to provide an audited statement certifying the amount paid by the Licence Holder to the Trust, and that payment has been made in accordance with condition 15.

9.11 In relation to condition 16, SCAL and CCL questioned the ability of the Commission, at its own initiative, to make amendments to the Deed of Trust as it is not party to it The Commission has deleted condition 16 accordingly. It is unnecessary for licence conditions to require the Licence Holder to submit for approval of any amendments to the Trust Deed, as this is already a requirement of the Deed.

9.12 In summary, the Commission proposes:

(a) amending condition 15, to add a requirement for the Licence Holder to provide an audited statement, certifying the contribution made by it to the Trust;

(b) retaining the requirement for the Licence Holder to publish information relating to the distribution of Trust funds as originally proposed, but adjusting the wording to address the legal issue raised by SCAL;

(c) deleting condition 16 relating to amendments to the Trust Deed.

10. APPLICATION OF SCML'S OPERATOR'S LICENCE TO ALL THREE CASINOS

10.1 As currently proposed, SCML's operator's licence applies only to its Auckland venue. SCML and CCL noted that SCML's operator's licence is not casino-specific and proposed that conditions specific to each of the three casinos are appended to a single licence held by SCML.

10 2 The Commission agrees to this approach, and has made amendments to this effect. When it makes its final decision, the Commission proposes to revoke the conditions attached to the Casino Agreement between SCAL and SCML relating to the Auckland venue and to specify that the new conditions specified by the Commission form Schedule 1 attached to the SCML licence, with additional Schedules relating to other venues to follow

11. RATIO

11.1 Condition 4.2 of SCML's operator's licence currently requires that the Licence Holder not exceed a 1:15 ratio between tables and gaming machines, except with the Authority's approval. This condition was carried forward by the Commission, without making provision for variation.

11 2 SCML, CCL, the Secretary, MoH and PGF made submissions on draft condition 8. SCML and CCL sought the deletion of the condition, on the basis that it was no longer relevant In the alternative, SCML proposed that the Commission should have the ability to approve divergence from the ratio. PGF submitted that the condition should be amended so that the ratio applied to tables in operation.

11.3 The Commission decided to retain condition 8, amended to provide itself with the ability to approve variation

12. GAME MIX

12.1 Game mix is not currently specified in licence conditions, but is now regulated in relation to the Auckland casino by way of approved floor plans, a relatively recent development. Section 12 of the Act expressly identifies player spaces as a parameter that the Commission is required to consider in ensuring there is no increase in opportunities for casino gambling. Consistent with this requirement, the Commission proposed in condition 10 of SCML's operator's licence to regulate opportunity by specifying the mix of table games, thus fixing both the maximum number of players (largely indirectly) through the game rules, and the range and mix of wagering activities, and relieving floor plans of that task

12 2 SCML and CCL opposed the regulation of table game mix on the basis that this was outside the scope of conditions that the Commission could impose and an unreasonable constraint on the Licence Holder's operations. If table game mix was to be regulated, SCML's preference was that this continue to be done under floor plans, as it would be inefficient for the Licence Holder to seek regular variations of licence conditions to amend

the table game mix. The Secretary supported separating approvals for floor plans and game mix, but considered that amendment of game mix would be managed more efficiently via an approval process rather than involving licence condition amendment.

12.3 The first issue, raised by SCML, is whether the Commission should regulate table game mix. While submitting that regulation was unnecessary, SCML acknowledged at the hearing that player spaces would need to continue to be controlled via floor plans which is another form of table game mix control. The alternative to regulating table game mix would be to regulate player spaces, eg by specifying a maximum number, but no party advocated that. Regulating game mix enables the Commission to control not only player space, but other things in which it may have a regulatory interest, eg rates of play, harm.

12.4 Having determined that it was necessary and appropriate for it to regulate game mix, the Commission considered how it should do so, in particular, whether game mix should be regulated separately from floor plans, and if so, whether table game mix should be specified in licence conditions (as is the case with table and game machine numbers), or in an annex to the conditions.

12.5 The weight of argument presented to the Commission was that game mix and floor plans should be separated (MoH, the Secretary). The Commission considers there are potential benefits in doing so, elaborated in section 14 below, relating to floor plans

12.6 The Commission's initial preference was that table game mix should be specified in licence conditions because it is logically linked to table numbers, and, as a core regulatory control, is appropriately shown on the face of the licence. The Commission accepts, however, that the regulatory control necessary is achieved whether table game mix is expressed in a licence condition or in a schedule to the conditions, as the Secretary proposed. The Commission noted submissions by SCML that game mix is altered reasonably frequently, and that approval, rather than an amendment to a licence condition, is the preferred amendment mechanism. Against this background, the Commission has amended condition 10 to reflect the wording proposed by the Secretary and inserted a new Annex A, recording the currently approved game mix.

12.7 In summary, the Commission proposes:

(a) amending draft condition 10 (now condition 9) to provide that the Licence Holder may operate the game types and mix(es) specified in Annex A to the Licence; and

(b) inserting a new Annex A recording the game mixes approved in the Commission decision GC29/05.

13. ELECTRONIC VERSIONS OF TABLE GAMES, AIDS AND ENHANCEMENTS

13 1 The introduction of electronic versions of table games, and electronic aids and enhancements is not currently regulated in licence conditions. The Commission has, however, in approving new floor plans for the Auckland casino, specified that its approval relates only to the operation of manual versions of the games specified (with the exception of Touchbet and Rapid Roulette), and does not permit the introduction of electronic versions, aids and enhancements, which require separate approval Draft condition 11 made this requirement plain on the face of SCML's licence.

13.2 SCML and CCL opposed draft condition 11 on the basis that the regulation of electronic versions, aids and enhancements is exclusively the role of the DIA. SCML also submitted that the condition:

(a) is based on an incorrect interpretation of sections 11 and 12, speed of play not being a relevant consideration when assessing whether there is an increase in opportunity for casino gambling;

(b) goes beyond what is contemplated by section 139 and Schedule 1 of the Act;

(c) is an unreasonable restriction on the ability of the Licence Holder to determine game mix;

(d) is unsupported by evidence of the harmful consequences of electronic games, aids or enhancements; and

(e) does not provide the criteria which the Commission would apply when determining whether to grant or approve refusal

13.3 The DIA, MoH, PGF and GH supported the condition, with MoH and GH, in particular, expressing concern about the increased risk of harm associated with changes in technology which provided continuous and increased speed of play and, in some circumstances, a false perception of skill the games may offer GH expressed concern that electronic enhancements might be introduced for table games which mimicked the design elements of gambling machines, eg noise, lighting, imaging, stop buttons, these features all reinforcing gambling addiction.

13.4 The Secretary accepted that it had dual responsibilities with the Commission in relation to the regulation of the electronic versions, aids and enhancements in casinos – the Department in approving the games and gaming equipment, and the Commission in regulating deployment within individual casinos (ie how many, and subject to what conditions or mitigating requirements) Rather than using the terms "aids" and "enhancements", which are undefined in the Act, the Secretary proposed that the condition be amended to require that the Commission be notified of the proposed introduction and deployment of electronic versions of table games, new gaming equipment and table games where the rules have been changed. The Commission would then have the opportunity to "call in" a proposal for approval if it wished to consider it further.

13.5 The Commission is required to ensure, through licence conditions, that there is no increase in opportunities for casino gambling, and, as noted by the High Court recently in *Skycity Auckland Limited v The Gambling Commission & The Department Of Internal Affairs,* CIV–2005-407-958, increases in speed of play may accompany the introduction of electronic versions of table games. The Commission also noted submissions made by MoH, PGF and GH that high speed of play and the introduction of gaming machine features on gaming tables can also contribute to the development and reinforcement of harmful gambling behaviour.

13.6 The argument made by SCML was that electronic versions etc should be regulated entirely through equipment standards and game rules. Other submitters – including the Secretary who makes the standards and rules – considered that there is a distinct role for the Commission in determining how and the extent to which versions and enhancements should be deployed. Decisions on what constitutes an increase in opportunities for casino gambling is, under section 12(1) of the Act, specifically a function and responsibility of the Commission

13.7 The Commission noted submissions that the proposed formulation "electronic versions, aids and enhancements" was undefined in the Act, and may benefit from further clarification. The Commission considered carefully the proposal made by the Secretary to refer instead to "gambling equipment". This term is broadly defined in the Act as "a machine, device, or thing used remotely or directly to conduct or monitor gambling", and includes "equipment and associated things" and gaming machines. The Commission considered that use of the term would give the condition a broader compass than required. The Secretary proposed a notification and approval mechanism by which applications that the Commission should consider could be separated from those where there was no need.

13.8 The Commission's preference was, however, that the condition identify on its face the circumstances in which approval was required. It decided to retain the current wording, no preferable terminology to replace "aids and enhancements" having been advanced by the parties. Although electronic versions, aids and enhancements were not defined terms in the Act, their meaning is considered to be reasonably plain. The Commission considers the formulation to be sufficiently broad to capture future technological innovations, as well as the expansion within casinos of approved equipment operating under limited deployment, eg expanded use of electronic shufflers.

13 9 Operators expressed concerns that they are now required to obtain two sets of approvals – from the Secretary to amend standards to game rules, and from the Commission to deploy approved changes to games There would be nothing to stop an operator notifying the Commission of its intention to deploy new equipment or new games prior to obtaining necessary approvals from the Secretary Applications could presumably be advanced on a concurrent basis

13.10 In summary, the Commission proposes to retain condition 10 (now 9). This has been amended to require the Commission's approval prior to the introduction of new wagering opportunities created by variations to table game rules, as proposed by the Secretary

14. FLOOR LAYOUTS

14.1 Currently, floor plans are used to regulate both game mix and the positioning of tables and machines. For the reasons set out above, the approved game mix will in future be specified and amended separately from floor plans. It is anticipated that the primary purpose of floor plans in future will be locational, providing the Commission and the Inspectorate with information about actual deployment of tables and machines, and enabling it to confirm that surveillance coverage is adequate.

14 2 SCML may seek approval for floor plans deploying fewer tables and machines than specified in the approved game mix. The separation between floor plan and game mix should facilitate making mere layout changes so long as the regulatory cap on table games and game mix (in Annex A) is not breached. To that extent, the proposed changes will provide greater operational flexibility and greater ability to make layout changes with minimal difficulty than previously.

14 3 In summary, the Commission has retained the proposed wording in condition 12 (now 11) with the amendments proposed by SCML to draft condition 12, to require the Licence Holder to submit details of the proposed CCTV arrangements rather than CCTV layout plans.

15. CASH ACCESS

15.1 Condition 4 1 of SCML's operator's licence currently requires that the Commission's prior approval be obtained for the installation of ATMs and EFTPOS facilities throughout the

Casino Venue. An identical condition, I2, in SCAL's venue licence, was revoked by Commission decision GC07/05

15.2 To guide its consideration of applications under conditions 4.1 and I2, the Authority developed a Policy for Cash Dispensing Devices. That Policy specified a ratio between the number of cash-dispensing devices installed in a casino, and the number of gaming positions of 1 to 75.

15.3 Proposed conditions were intended to reflect the modified approach taken to the regulation of cash access in Commission decisions GC07/05 and GC16/05, as follows:

(a) ATMs in the casino venue are limited to 10, with no locational control, provided the ATMs are outside the Gambling Area (condition 13)

(b) Approval is required for all cash-dispensing EFTPOS devices in the Gambling Area (condition 14).

(c) EFTPOS terminals outside the Gambling Area are prohibited from dispensing more than $50 cash (condition 16).

(d) The Licence Holder may install non cash-dispensing EFTPOS terminals in the Gambling Area and EFTPOS terminals outside the Gambling Area dispensing no more than $50 cash without first obtaining the approval of the Commission (condition 17)

15.4 A range of views was expressed on cash access issues. OCL submitted that restrictions on EFTPOS transactions should not differ from those placed on other businesses. PGF submitted that there should be a total prohibition on dispensing cash from EFTPOS terminals in the Gambling Area, and that a maximum of two ATMs should be permitted in the casino, out of view and at least 30 metres from the Gambling Area. The MoH supported the approach taken by the Commission but queried what criteria would be applied by the Commission when considering applications for approvals of cash-dispensing EFTPOS facilities.

15.5 The Commission has considered cash access issues previously in its decisions GC07/05 and GC16/05 in particular. While it will keep cash access issues under review, it does not propose to adopt any changes in the approach set out in conditions 13-17 at this time, with the exception of condition 15. Here the Commission has amended condition 15 to provide that the Commission may approve the use of mobile EFTPOS in the Gambling Area for payment for food and beverages. To assist it in monitoring the number and extent of non-cash dispensing EFTPOS in the Gambling Area, and the location of ATMs, the Commission has inserted an additional condition, requiring the Licence Holder to notify it when non-cash dispensing EFTPOS terminals are installed in the Gambling Area, or ATMs are relocated.

15 6 In summary, the Commission proposes:

(a) retaining conditions 13, 14, 16, 17 largely unamended;

(b) amending condition 15 (now 14) to provide that the Commission may approve the use of mobile EFTPOS in the Gambling Area for the purchase of food and beverages; and

(c) inserting condition 17, requiring the Licence Holder to notify the Commission when the ATMs outside the Gambling Area are moved, or non-cash dispensing EFTPOS terminals are installed in the Gambling Area

16. SURVEILLANCE

16 1 Under current conditions, SCAL is required, under its venue licence, to obtain approval for all drawings and specifications for gaming floor layouts showing CCTV (condition B1) and is required to provide drawings of security, surveillance and alarm systems (condition B2) SCAL is also required to provide surveillance facilities "to a standard approved by the Authority" (condition B6).

16.2 In condition 19, the Commission proposed that the Licence Holder be required to provide security equipment meeting or exceeding the Standard, with the Commission having the reserve ability to institute an audit or require the Licence Holder to report on compliance The Commission also proposed in condition 20 that SCML must obtain the approval of the Commission prior to the introduction of new surveillance technology undertaking a general upgrade.

16.3 SCML submitted that condition 20 was unnecessary, and that the matters specified could be adequately be dealt with under the Surveillance Standard. This was because:

(a) digital video recording was already installed at the Auckland Casino;

(b) subclause (b) would, unnecessarily, require SCML to seek prior approval to install cameras in parts of the casino venue not previously the subject of regulatory interest, eg in the hotel or staff cafeteria;

(c) subclause (c) was covered by the Surveillance Standard.

16.4 The Secretary submitted that it was appropriate for the Commission to approve new surveillance technology or a significant upgrade to cameras or recording equipment prior to installation in order to provide regulators with the opportunity to consult, as necessary, with overseas counterparts, identify any potential problems with the new technology and set specific standards. The Secretary accepted that subclause (b) was unnecessary and was better managed by way of notification to the Inspectorate rather than prior approval by the Commission. The Secretary submitted that the matters specified in subclauses (a) and (b) were not covered by the Surveillance Standard.

16.5 At the hearing the Secretary proposed amended wording for condition 20, which the Commission adopts, as follows:

> The Licence Holder shall obtain the approval of the Commission prior to the introduction into the casino of new surveillance technology, including but not limited to, changes from analogue to digital recording, ceiling mounted cameras to 'lollipop' cameras and any general upgrade of cameras or recording equipment

17. HOST RESPONSIBILITY

17.1 Conditions relating to Host Responsibility are currently contained in Section T of SCAL's venue licence. Draft condition 24 in the proposal was based on condition 24.2 of the venue licence for SKYCITY Hamilton casino, this being a more recent and detailed elaboration of Host Responsibility obligations incumbent on SCML. A number of new elements were included to reflect new legislative requirements and to address matters raised in informal consultation by MoH and treatment providers. The provision of dedicated staff, pre-commitment programmes, assistance to casino employees, recognition of cultural differences and the role of design of the casino in minimising harm were all identified as matters appropriately addressed in SCML's Host Responsibility Programme.

17.2 SCML and CCL submitted that it was unnecessary and inappropriate, in condition 24, to restate or expand on requirements in the Act or Regulations and to refer to initiatives that SCML was undertaking voluntarily, for example, to integrate cultural considerations into its approach to host responsibility. On this basis, SCML proposed the deletion of 24(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (l) and (p), objecting in particular to subclauses (g) and (h) relating to the provision of pre-commitment cards, and assistance to casino employees with managing personal problem gambling risk.

17.3 In relation to 24(g) SCML provided a letter from Neil Spencer, Managing Director of Gaming Consultants International, indicating that the development of pre-commitment systems was complex, costly and in its formative stages. SCML indicated at the hearing that it may in the future wish to include some form of cashless pre-commitment system, but did not want conditions imposed to require it. In relation to 24(h), SCML described previous initiatives to assist employees that had not been as successful as hoped SCML acknowledged that it did not have a completely effective programme yet, and sought the ability to continue to work flexibly to optimise support for staff. The Commission understood from these submissions that SCML considered 24(h) to be overly prescriptive

17.4 If the SCML amendments had been accepted, condition 24 would have read as follows:

> The Statement and Programme shall be consistent with and impose no lesser requirement than specified in the Act or Regulations. The Programme shall provide for:
>
> (a) responsible practices in the conduct of promotions and inducements to gamble at the casino;
>
> (b) promotion of the responsible consumption of alcohol, including provision of staff training in responsible service of alcohol;
>
> (c) standards of dress and behaviour at the casino;
>
> (d) liaison with community service organisations, patrons with gambling problems, and family members of patrons with gambling problems;
>
> (e) such other matters as the Commission may require

17.5 The Secretary, MoH, PGF and GH all supported a Host Responsibility Programme which is comprehensive and a licence condition which established clearly the matters to be addressed in it. SCML and CCL presented no compelling argument why this should not be so. SCML's and CCL's submissions centred on a legal objection to the duplication or restatement of legislative requirements, and a concern that SCML would lose its ability to respond flexibly in discharging its host responsibility obligations.

17.6 PGF expressed the view that regulatory requirements for casinos should be higher than other gambling venues. Casinos were now in a monopoly position, and had the resources to "raise the bar". PGF highlighted the importance of signage, with preventative messages having an equal profile with promotional material, the importance of staff training, and the desirability of six month reporting, which, it was submitted, should also come to organisations such as PGF. PGF was critical of the perceived lack of "metrics" in the Licence Holder's approach to host responsibility Applying the usual business model, PGF would expect the Licence Holder to measure the baseline, set harm minimisation targets and milestones, and evaluate outcomes PGF suggested that there was no evidence that this was occurring. PGF also underscored the potential importance of information available to the Licence Holder through its player loyalty scheme in assisting with the identification of problem gamblers. It considered that the difficulties raised relating to pre-commitment were overstated.

17.7 The Secretary submitted that the licence condition should more directly reference requirements under the Act or Regulations submitting, for example, that 24(a)-(d) should refer back to provisions of the Act or Regulations. The Secretary agreed with GH that the provision for dedicated staff in subclause 24(e) may be unnecessary and with SCML that it was premature to require a pre-commitment programme, in the absence of detailed research and Minimum Operating Standards. The Secretary also agreed with SCML that condition 25 might appropriately be amended to provide the Licence Holder with greater flexibility to amend the Programme.

17.8 The Commission wishes to clarify that the purpose of the condition is to require the Licence Holder to develop a Host Responsibility Programme, and to provide in condition 24 a checklist of the matters which the Commission would expect to see addressed in it. The amendments proposed by SCML and CCL would have produced a greatly diminished and potentially misleading checklist, suggesting incorrectly that the primary focus of the Programme is on the conduct of promotions, responsible consumption of alcohol, dress standards, and liaison rather than minimising the risk of gambling harm. The Commission anticipates that the Programme will accurately reflect the language and obligations of the Act and Regulations, but will also include the things that SCML is doing voluntarily, as a good host, to minimise gambling harm.

17.9 While it has not deleted the provisions identified by SCML, the wording of condition 24 has been modified in places, to clarify that it is intended to create a non-exhaustive list of matters to be addressed in the Programme rather than prescriptive outcomes The Commission has also amended the wording to refer to the Act or Regulations where it is clear that the Programme will not address matters going beyond the scope of relevant legislative provision. In circumstances where the Host Responsibility Programme may enlarge on an obligation in the Act, the Commission has retained more general wording For example, condition 24(d) now refers in general terms to "the provision of staff training". The Programme will, no doubt, elaborate on how the Licence Holder proposes to implement Regulation 12 of the Gambling (Harm Prevention and Minimisation) Regulations 2004 The more general wording anticipates that the Licence Holder may also, flexibly, use training to assist in achieving other aspects of the Programme.

17.10 Having considered submissions, the Commission decided to delete 24(e), (g) and (p). Potential downsides were raised in relation to the proposal in 24(e) that SCML should provide dedicated staff responsible for identifying and approaching problem gamblers This is a matter that the Licence Holder may wish to keep under review in its Programme in the context of 24(d) relating to the provision of staff training

17.11 The Commission also accepts that it may be premature for SCML to be required to provide pre-commitment cards as part of its Host Responsibility Programme Tracking of customer expenditure was, however, identified by all as a potentially fruitful area for potential investigation in the future, both in identifying at risk customers and assisting customers manage their own expenditure. Condition 24(f) (now 24(e)) has been amended to refer to the provision of exclusion, self-exclusion and limitation programmes to provide a platform for future work.

17.12 SCML expressed concerns about diminished flexibility to amend the Programme. The Commission has inserted an additional condition and amended condition 25 to clarify that the Programme may be amended by the Licence Holder from time to time to include appropriate improvements in the delivery of the Programme and new host responsibility and responsible gambling initiatives, consistent with condition T(c) of SCAL's current licence The Commission has no wish to stifle innovation, quite the reverse Rather, it wishes to work with the Licence Holder to review and assess what is working and what is not, and to assist the Licence Holder in measuring and achieving best outcomes

18. CONCLUSION

18 1 A key purpose achieved by the review of casino licence conditions has been to bring them into better alignment with the requirements of the Act. That process will see conditions which do not relate to the purposes of the Act relaxed, but other conditions tightened in order to achieve statutory purposes, in particular to prevent any increase in opportunities for casino gambling, prevent and minimise harm, ensure integrity and fairness of games and ensure that money from gambling benefits the community

18.2 The Commission thanks all parties for their participation in the review process to date Parties have until 10 February 2006 to make any further submissions on the amendments now proposed by the Commission.

Graeme Reeves
Gambling Commissioner

for and on behalf of the
Gambling Commission

23rd December 2005

CASINO CONTROL AUTHORITY

CASINO OPERATOR'S LICENCE

Name of holder of casino operator's licence:	Sky City Casino Management Limited
Address of holder of casino operator's licence:	PO Box 6443, Wellesley Street, Auckland

The holder of this casino operator's licence is authorised pursuant to section 37 of the Casino Control Act 1990 to operate a casino, including the operation of games in the casino, in conjunction with the holder of a casino premises licence, until:

(a) The holder of this licence sooner surrenders the licence under section 51 of the Casino Control Act 1990; or

(b) This licence is cancelled by the Casino Control Authority under section 91 of the Casino Control Act 1990

This licence is subject to -

(a) The conditions contained in the Casino Control Act 1990; and

(b) Any conditions imposed by regulations made under the Casino Control Act 1990; and

(c) Any directions given by the Casino Control Authority pursuant to section 70 of the Casino Control Act 1990; and

(d) Any further conditions attached to this licence by the Casino Control Authority pursuant to section 43 of the Casino Control Act 1990 on granting any approval under section 42 of that Act.

Dated this 7th day of May 1998

BY the direction of the Casino Control Authority the seal of the Casino Control Authority is hereunto affixed in the presence of:

____

____

SCHEDULE

Preamble

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

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~~this Licence~~:

Act means the Gambling Act 2003.

Authority means the Casino Control Authority.

~~**Casino** and~~ **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.~~mean the land and buildings described as the Casino premises.~~

Commission means the Gambling Commission

Gambling Area means that part of the Casino Venue specified in ~~designated by the Commission pursuant to~~ condition 9~~5~~ of the venue licence.

Licence Holder means SKYCITY Casino Management Limited.

Secretary means the Secretary for~~of~~ 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

~~**Gambling Area**~~

~~5. The Gambling Area of the Casino shall be the areas delineated on plans marked "A" and "B" dated 22 October 2004 forming part of this Licence.~~

~~6.~~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 The Licence Holder shall not permit a player to play more than one gaming machine at a time.

~~7.~~6. The number of gaming tables in the Gambling Area~~Casino Venue~~ shall not exceed 110.

~~8.~~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

~~9.~~8. At least two table games shall be open for play when the Casino is operating.

~~10.~~9. The Licence Holder may operate ~~any of the following game types~~ 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.

~~Black Jack/Pontoon – 46 games~~
~~Roulette - 21 games~~
~~Electronic Roulette – 2 games~~
~~Caribbean Stud Poker – 10 games~~
~~Midi Baccarat – up to 17 games~~
~~Mini Baccarat – up to 7 games~~
~~Pai Gow – up to 4 games~~
~~Tai Sai – up to 1 game~~
~~Money Wheel – up to 2 games~~

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~~10~~ above or electronic aids or enhancements;~~.~~ or new wagering opportunities created by variations to game rules.

~~12.~~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 ~~plans~~ for the consideration of the Commission Any change must comply with the Surveillance Standard

ATMs, EFTPOS and like devices

~~13.~~12. ~~No automatic teller machines shall be installed in the Gambling Area.~~ A maximum of 10 automatic teller machines is permitted ~~elsewhere~~ in the Casino Venue outside the Gambling Area.

~~14.~~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

~~15.~~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.

~~16.~~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.

~~17.~~16. Subject to the restrictions specified in conditions 14, 15 and 16 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 ~~and maintain~~ 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, including but not limited to changes from analogue to digital ~~and~~ recording, ceiling mounted camerasings to "lollipops" cameras and any general upgrade of cameras or recording equipment;.

~~(a)the installation of surveillance equipment in areas of the Casino Venue not previously used for gambling or gambling-related operations, eg cashiering; and~~

~~(b)undertaking any general upgrade of cameras or recording equipment.~~

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 ~~Responsible Gambling~~ 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~~provide for~~:

(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~~for~~ problem gambling;~~,~~

(ii) research-based indicators of problem gambling in the gambling venue;

(iii) ~~appropriate identifiers, and an outline of~~ the steps to be taken by the Licence Holder in~~for~~ identifying actual or potential problem gamblers;

(d) the provision of staff training ~~in the responsible provision of gambling and in identifying, approaching and advising potential problem gamblers. Venue managers and any employee who is in direct contact with players in the course of his or her duties at the Casino Venue must be trained to a level appropriate to their role~~;

~~(e)dedicated staff responsible for identifying, approaching and analysing potential problem gamblers;~~

~~(f)~~(e) the provision of exclusion, ~~and~~ self-exclusion and limitation programmes~~s for problem gamblers~~;

~~(g)provision of pre-commit cards for current or previously excluded problem gamblers and all clients, on request;~~

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

~~(i)~~(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;

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

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

(j) ~~responsible~~ 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;

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

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

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

~~(p)reporting to the Commission on the operation of the Programme; and~~

~~(q)~~(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.

~~25.~~27. The Licence Holder shall every six months report to the Commission on the implementation of the Statement and the Programme commencing on 1 June 2006 ~~December 2005~~. The Commission will review the Statement and the Programme every two years commencing in June 2006~~December 2005~~. ~~The Licence Holder's report to the~~

~~Commission when the Statement and Programme are to be reviewed shall include recommended improvements to the Programme, relating for example to Programme delivery, new host responsibility and responsible gambling initiatives, and any amendments required to reflect new regulatory requirements. The Commission will review the report, the Statement and Programme and proposed amendments,~~ 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

~~27.~~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

~~28.~~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

~~29.~~30. The Licence Holder shall not permit an intoxicated person to gamble in the casino.

Notification requirements

~~30.~~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 ~~Venue~~ licence, including any person ceasing to be an~~the withdrawal of any~~ associated person of the Licence Holder

~~31.~~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

~~32.~~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

~~33.~~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.

~~34.~~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

~~35.~~36. The Licence Holder shall keep and maintain a bank account or bank accounts as approved by the Commission at a bank or banks in New Zealand for use for all banking transactions relating to the operation of the Casino. The bank account(s) shall be used exclusively for the operation of the Casino.

~~36.~~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

~~37.~~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 ~~whether the Casino is operated by the Licence Holder or pursuant to a casino agreement by another licensee~~; or

(c) any associated person of ~~person or entity associated with~~ 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.

~~38.~~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

~~39.~~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

~~40.~~41. The capacities referred to in paragraph 39 are those relating to:

(a) conducting approved games (for example, as a dealer)~~the provision of security or surveillance services~~;

(b) ~~the~~ counting ~~of~~ money or chips ~~in the casino~~derived from or used in gambling;

(c) ~~the~~ movingement ~~of~~ money or chips derived from or used in gambling~~about the casino~~;

(d) buying or redeeming~~the exchange of money or~~ chips ~~to customers in the casino~~;

(e) ~~the~~ operating~~on~~, maintaining~~enance~~, constructing~~on~~ or repairing ~~of~~ gambling equipment;

(f) ~~the~~ supervising~~on~~ or managing~~ement of~~ any of the ~~above~~ activities described in paragraphs (a) to (e)~~, or of the conduct of gaming~~

~~41.~~42. The content, format and duration of such courses shall be from time to time approved by the Commission.

Entry

~~42.~~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

~~43.~~44. The Licence Holder shall file with the Commission an address in New Zealand for the service of notices upon it.

~~44.~~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 (with automatic shufflers) – 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 (with automatic shufflers) – up to 6 games with up to 10 player spaces
- Tai Sai (Double Side) – 1 game

- Tai Sai (Single Side) – 1 game

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.

GAMBLING COMMISSION

CASINO PREMISES LICENCE

Section 31, Casino Control Act 1990

Name of holder of casino premises licence:	Sky Tower Casino Limited
Address of holder of casino premises licence:	Level 9, CML Building, 22-24 Victoria Street Wellington, New Zealand
Address and description of Casino premises (amended pursuant to the judgment in *Auckland Casino Limited v Casino Control Authority* (M 81 94, High Court, Auckland Registry, 13 July 1994 Robertson J)):	All of the land and buildings bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, Auckland, New Zealand, being the parcels of land comprising: (i) all that parcel of land containing 6342 square metres more or less being Lot 1 Deposited Plan 105225 and being Allotments 23, 24, 25, 33, 34, 35 and 43 and part Allotments 19, 20, 21 and 22, Section 22 City of Auckland (Certificate of Title 58A/312 North Auckland Registry); (ii) all that parcel of land containing 5513 square metres more or less being Lot 1 Deposited Plan 108126 and being Allotments 26, 27, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42 and part Allotments 12 and 13, Section 22 City of Auckland (Certificate of Title 60C/167 North Auckland Registry); (iii) all that parcel of land containing 834 square metres more or less being Part Allotment 13, Section 22 City of Auckland (Certificate of Title 31C/1327 North Auckland Registry), excluding the underground carpark, the bus terminal, the Sky Tower and the walkway between the Sky Tower and the Casino complex

This licence authorises the use of the premises to which it relates as a casino for a period of 25 years commencing with the date on which the operation of the casino commences, and shall then expire, unless:

(a) The holder of the licence sooner surrenders the licence under section 51 of the Casino Control Act 1990; or
(b) The licence is sooner cancelled by the Casino Control Act; or
(c) The licence lapses under section 26 of the Casino Control Act 1990; or
(d) The licence is renewed under section 34 of the Casino Control Act 1990

Conditions

This licence is subject to -

(a) The conditions contained in the Act; and
(b) The conditions set out in the Schedule to this licence; and
(c) Any conditions imposed by regulations made under the Casino Control Act 1990; and
(d) Any directions given by the Casino Control Authority pursuant to section 70 of the Casino Control Act 1990; and
(e) A condition that the operation of the casino authorised by this licence shall commence within 2 years after the date on which this licence is granted, namely, the 21st day of January 1994; and that if the operation of the casino does not commence within that period, this licence shall lapse unless the Casino Control Authority extends that period in accordance with section 26(2) of the Casino Control Act 1990; and
(f) Any further conditions attached to this licence by the Casino Control Authority pursuant to section 43 of the Casino Control Act 1990 on granting any approval under section 42 of that Act

Dated this 24th day of April 1995

BY the direction of the Casino Control Authority the seal of the Casino Control Authority is hereunto affixed in the presence of:)

______________________________)

______________________________)

dR

SCHEDULE

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~~this Licence~~:

Act means the Gambling Act 2003

Authority means the Casino Control Authority

~~Casino and~~ Casino Venue means the area defined as constituting ~~land and buildings described as~~ the ~~C~~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~~of~~ 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 If the Licence Holder is confident that proposed alterations to the design and construction of the Casino Venue will not affect any person's compliance with the Act, the changes may be effected without the approval of the Commission. If the alteration may affect any person's ability to comply with the Act, including by creating the potential for increased harm, the approval of the Commission is required before the proposed alteration is carried out~~

~~7.~~6. ~~Without limiting condition 6 above, t~~The Licence Holder must obtain the approval of the Commission prior to:

~~(c)~~(a) construction~~structural~~ or design changes to Levels 2 and 3, including~~in~~ the Gambling Area but excluding the SKYCITY Theatre;~~ which diminish the ability of staff or other patrons to observe gambling patrons.~~

~~(a)~~(b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank~~ing~~ facilities available to the public excluding ATMs, EFTPOS and like devices;

~~(b)~~(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. 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 ~~banks~~ and gambling equipment store-rooms~~;~~.

~~(c) any proposed structural or layout changes in the Casino Venue does not:~~

~~(i) adversely impact on the integrity and fairness of games;~~

~~(ii) adversely impact on the effectiveness of security and surveillance arrangements or contravene the Surveillance Standard;~~

~~(iii) adversely impact on the effectiveness of harm minimisation and host responsibility programmes and arrangements;~~

~~(iv) increase opportunities for casino gambling.~~

Gambling Area

9 The Gambling Area within~~of~~ the Casino Venue comprises~~shall be~~ the areas specified in ~~delineated on~~ plans marked "A" and "B" dated 22 October 2004~~ forming part of this Licence~~.

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~~ and relevant minimum operating standards~~;

(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~~ and relevant minimum operating standards~~;

(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 ~~its~~ 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 ~~publish annually the amount paid to~~ ask the Trust~~, the allocation by the Trust of funds (identifying~~ 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.

~~17.The Commission may, on application by the Licence Holder or at its own initiative, approve amendments to the Deed of Trust. The Commission will seek submissions from the Licence Holder, and any other affected person, before deciding on a proposed amendment.~~

Notification requirements

~~18.~~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~~the withdrawal of any associated person~~

~~19.~~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

~~20.~~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

~~21.~~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

~~22.~~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

~~23.~~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

~~24.~~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

~~25.~~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 ~~whether the Casino is operated by the Licence Holder or pursuant to a casino agreement by another licensee~~; or

(c) any associated person of~~or entity associated with~~ 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

~~26.~~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

~~27.~~26. The Licence Holder shall file with the Commission an address in New Zealand for the service of notices upon it

~~28.~~27. The Licence Holder may, by notice given to the Commission, change its address for the service of notices