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# Licensing Committee

Tuesday, 16th December,  
2014

at 10.00 am

**PLEASE NOTE TIME OF MEETING**  
**Council Chamber - Civic Centre**

This meeting is open to the public

## **Members**

Councillor Tucker (Chair)  
Councillor Galton  
Councillor Lewzey (Vice-Chair)  
Councillor Lloyd  
Councillor Painton  
Councillor Parnell  
Councillor Pope  
Councillor Spicer  
Councillor Vassiliou  
Councillor Whitbread

## **Contacts**

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## **PUBLIC INFORMATION**

### **Role of this Committee**

The Committee publishes and implements a statement of licensing policy. It appoints Sub-Committees to deal with individual licensing applications and associated matters for which the Council as Licensing Authority is responsible.

### **Public Representations**

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

### **Southampton City Council's Priorities:**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

**Smoking policy** – The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

**Use of Social Media:-** If, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

**Fire Procedure** – Should the fire alarm sound during the meeting leave the building by the nearest available exit and assemble in the Civic Centre forecourt car park.

**Access** – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### **Dates of Meetings: Municipal Year 2014/15:**

Meetings of the Committee are held as and when required.

## CONDUCT OF MEETING

### TERMS OF REFERENCE

The terms of reference of the Licensing Committee are contained in Part 3 (Schedule 2) of the Council's Constitution.

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 4.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

- (iv) Any beneficial interest in land which is within the area of Southampton.

- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

Agendas and papers are available via the Council's website

### 1 **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in membership of the Committee made in accordance with Council Procedure Rule 4.3.

### 2 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

### 3 **STATEMENT FROM THE CHAIR**

### 4 **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 22)

To approve and sign as a correct record the Minutes of the meetings held on 4 and 11 September 2014 and to deal with any matters arising, attached.

### 5 **EXCLUSION OF THE PRESS AND PUBLIC**

At a predetermined point during the consideration of all items the Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by Section 100A(4) Local Government Act 1972, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Committee will be announced.

### 6 **GAMBLING ACT 2005 - LARGE CASINO LICENCE PROPOSAL TO DELAY THE COMMENCEMENT OF STAGE 2** (Pages 23 - 188)

Report of the Head of Legal and Democratic Services requesting consideration for the timing of Stage 2 of the Large Casino Licence process, attached.

Monday, 8 December 2014

HEAD OF LEGAL AND DEMOCRATIC SERVICES

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# Agenda Item 4

Minutes of the Previous Meetings:-

Appendix 1 – 4 September 2014

Appendix 2 – 11 September 2014

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SOUTHAMPTON CITY COUNCIL  
LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 4 SEPTEMBER 2014

Present: Councillors Tucker (Chair), Galton, Lewzey, Painton, Parnell, Vassiliou, Whitbread and Hammond

Apologies: Councillors Lloyd, Pope and Spicer

1. **ELECTION OF VICE CHAIR**

**RESOLVED** that Councillor Lewzey be elected as Vice Chair of the Committee for the 2014/15 municipal year.

2. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Committee noted that apologies had been received from Councillor Pope and Spicer.

It was noted that following receipt of the temporary resignation of Councillor Lloyd from the Committee, the Head of Legal and Democratic Services, acting under delegated powers, had appointed Councillor Hammond to replace him for the purposes of this meeting.

3. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED** that the minutes of the meeting held on 8 April 2014 be approved and signed as a correct record.

4. **EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED** that the parties to the hearing, press and public be excluded at a predetermined point in accordance with Section 100A(4) Local Government Act 1972 whilst the Committee reaches its decision.

5. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY ASPERS UNIVERSAL LTD AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT**

The Committee considered an application for a large casino provisional statement by Aspers Universal Ltd at the Proposed Royal Pier Waterfront Development.

Mr Heslop QC and Mr Noble (Aspers) were present and with the consent of the Chair, addressed the meeting.

The Committee heard a representation from Mr Linecar (Southampton Commons and Parks Protection Society) in relation to the Kymeira application. The issues raised were carried forward and considered in relation to the application.

All applications were heard before a decision was taken on any of the applications.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

## RESOLVED

- (i) that a provisional decision be made to grant an application for a provisional statement to Aspers Universal Ltd for a large casino at the proposed Royal Pier Waterfront development, subject to two conditions agreed with the applicant, set out below;

### Conditions

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Requiring the operation of Challenge 25.

- (ii) to exclude the default condition as to hours of operation.

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

### Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

The Committee is satisfied that Aspers will be able to operate a casino which is regulatorily compliant, and that any casino would need to have an operating licence from the Gambling Commission which is subject to compliance with the Licence

Conditions and Codes of Practice. This includes control of entry to prevent the admission of children.

The Committee has not considered the question of whether there may be crime and disorder in the vicinity arising from the operation of the casino. This is because there is no detailed design for the casino, nor detailed designs for the wider development. These are matters which may be considered in any future gambling premises licence application, the planning process and any application for a Licensing Act 2003 licence.

In the circumstances, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

The Committee was impressed with the Community Action for Responsible Gaming and would expect to see more about the scheme at Stage 2 of the competition.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

6. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY GENTING CASINOS UK LTD AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT**

The Committee considered an application for a large casino provisional statement by Genting Casinos UK Ltd at the Proposed Royal Pier Waterfront Development.

Mr Roberts (Solicitor), Mr Myers and Ms Atkinson (Genting Casinos UK Ltd) were present and with the consent of the Chair, addressed the meeting.

The Committee heard a representation from Mr Linecar (Southampton Commons and Parks Protection Society) in relation to the Kymeira application. The issues raised were carried forward and considered in relation to the application.

The Committee noted that the representations from Hampshire Constabulary and Southampton City Council, as licensing authority had been withdrawn.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

**RESOLVED**

- (i) that a provisional decision be made to grant the application for a provisional statement to Genting Casinos UK Ltd for a large casino at the proposed

Royal Pier Waterfront Development, subject to two conditions agreed with the applicant, set out below;

Conditions

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Requiring the operation of Challenge 25.

(ii) to exclude the default condition as to hours of operation.

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

The Committee is satisfied that Genting will be able to operate a casino which is regulatorily compliant, and that any casino would need to have an operating licence from the Gambling Commission which is subject to compliance with the Licence Conditions and Codes of Practice. This includes control of entry to prevent the admission of children.

The Committee has not considered the question of whether there may be crime and disorder in the vicinity arising from the operation of the casino. This is because there is no detailed design for the casino, nor detailed designs for the wider development. These are matters which may be considered in any future gambling premises licence application, the planning process and any application for a Licensing Act 2003 licence.

In the circumstances, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

The Committee was impressed with the Community Action on Responsible Gambling offered by a competitor and has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

The Committee notes that the plans are at an early stage of evolution and expresses at least some concern about secondary entrances directly adjacent to parkland. No doubt this is something to which the applicant would wish to give close attention as its plans develop.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

7. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY GLOBAL GAMING VENTURES (RP) LTD AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT**

The Committee considered the application for a large casino provisional statement by Global Gaming Ventures (RP) Ltd at the proposed Royal Pier Waterfront Development.

Mr Macgregor (Solicitor) was present and with the consent of the Chair, addressed the meeting.

The Committee heard a representation from Mr Linecar (Southampton Commons and Parks Protection Society) in relation to the Kymeira application. The issues raised were carried forward and considered in relation to the application.

The Committee noted that the representations from Hampshire Constabulary and Southampton City Council, as licensing authority had been withdrawn.

All applications were heard before any decision was taken on the applications.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

### **RESOLVED**

- (i) that a provisional decision be made to grant the application for a provisional statement to Global Ventures (RP) Ltd at the proposed Royal Pier Waterfront development, subject to three conditions agreed with the applicant, set out below;

#### Conditions

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Requiring the operation of Challenge 25;
- Preventing access to the smoking terrace except via the casino.

- (ii) to exclude the default condition as to hours of operation.

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

#### Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

The Committee is satisfied that GGV will be able to operate a casino which is regulatorily compliant, and that any casino would need to have an operating licence from the Gambling Commission which is subject to compliance with the Licence Conditions and Codes of Practice. This includes control of entry to prevent the admission of children.

The Committee has not considered the question of whether there may be crime and disorder in the vicinity arising from the operation of the casino. This is because there is no detailed design for the casino, nor detailed designs for the wider development. These are matters which may be considered in any future gambling premises licence application, the planning process and any application for a Licensing Act 2003 licence.

In the circumstances, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application. For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

The Committee was impressed with the Community Action on Responsible Gambling offered by a competitor, and was informed that GGV staff had in their former posts been instrumental in its establishment. It has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

The Committee notes that the plans are at an early stage of evolution and expresses at least some concern about secondary entrances directly adjacent to parkland. No doubt this is something to which the applicant would wish to give close attention as its plans develop.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

8. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY GLOBAL GAMING VENTURES (SOUTHAMPTON) LTD AT THE PROPOSED WATERMARK WEST QUAY DEVELOPMENT**

The Committee considered an application for a large casino provisional statement by Global Gaming Ventures (Southampton) Ltd.

Mr Macgregor (Solicitor) was present and with the consent of the Chair, addressed the meeting.

The Committee noted that the representations from Hampshire Constabulary and Southampton City Council, as licensing authority had been withdrawn.

All applications were heard before any decision was taken on the applications.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

### **RESOLVED**

- (i) that a provisional decision be made to grant an application for a provisional statement to Global Gaming Ventures (Southampton) Ltd at the proposed Watermark West Quay development, subject to two conditions agreed with the applicant, set out below;

#### Conditions

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Requiring the operation of Challenge 25.

- (ii) to exclude the default condition as to hours of operation

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

#### Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a)



Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

In the absence of any objections, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

The Committee was impressed with the Community Action on Responsible Gambling offered by a competitor and has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

9. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY GROSVENOR CASINOS LTD TO BE DEVELOPED AT LEISUREWORLD WEST QUAY ROAD**

The Committee considered an application for a large casino provisional statement by Grosvenor Casinos Ltd to be developed at Leisureworld West Quay Road.

Mr Wade and Mr Bishop (Rank) were present and with the consent of the Chair, addressed the meeting.

All applications were heard before any decision was taken on the applications.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

**RESOLVED**

- (i) that a provisional decision be made to grant an application for a provisional statement to Grosvenor Casinos Ltd to be developed at Leisureworld West Quay Road, subject to two conditions agreed with the applicant, set out below;

**Conditions**

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Requiring the operation of Challenge 25.

- (ii) to exclude the default condition as to hours of operation

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

### Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

In the absence of any objection, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

The Committee was impressed with the Community Action on Responsible Gambling offered by a competitor and has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;

- section 183, which prohibits the use of the premises for gambling on Christmas Day.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

10. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY GROSVENOR CASINOS LTD AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT**

The Committee considered an application for a large casino provisional statement by Grosvenor Casinos Ltd at the proposed Royal Pier Waterfront development.

Mr Wade and Mr Bishop (Rank) were present and with the consent of the Chair, addressed the meeting.

The Committee heard a representation from Mr Linecar (Southampton Commons and Parks Protection Society) in relation to the Kymeira application. The issues raised were carried forward and considered in relation to the application.

All applications were heard before any decision was taken on the applications.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

**RESOLVED**

- (i) that a provisional decision be made to grant an application for a provisional statement to Grosvenor Casinos Ltd at the proposed Royal Pier Waterfront development, subject to two conditions agreed with the applicant set out below;

Conditions

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Requiring the operation of Challenge 25.

- (ii) to exclude the default condition as to hours of operation.

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the

licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

The Committee is satisfied that Grosvenor will be able to operate a casino which is regulatorily compliant, and that any casino would need to have an operating licence from the Gambling Commission which is subject to compliance with the Licence Conditions and Codes of Practice. This includes control of entry to prevent the admission of children.

The Committee has not considered the question of whether there may be crime and disorder in the vicinity arising from the operation of the casino. This is because there is no detailed design for the casino, nor detailed designs for the wider development. These are matters which may be considered in any future gambling premises licence application, the planning process and any application for a Licensing Act 2003 licence.

In the circumstances, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

The Committee was impressed with the Community Action on Responsible Gambling offered by a competitor and has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

The Committee notes that the plans are at an early stage of evolution and expresses at least some concern about secondary entrances directly adjacent to parkland. No doubt this is something to which the applicant would wish to give close attention as its plans develop.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition

11. **GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY KYMEIRA CASINO LTD AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT**

The Committee considered an application for a large casino provisional statement by Kymeira Casino Ltd at the proposed Royal Pier Waterfront development.

Mr Walsh QC and Mr Nayek (Kymeira) and Mr Linecar (Southampton Commons and Parks Protection Society) were present and with the consent of the Chair, addressed the meeting.

The Committee noted that the representations from Hampshire Constabulary and Southampton City Council, as licensing authority had been withdrawn.

All applications were heard before any decision was taken on the applications.

The Committee considered the decision in confidential session in accordance with the Local Government Act, 1972 Section 100A(4).

**RESOLVED**

- (i) that a provisional decision be made to grant an application for a provisional statement to Kymeira Casino Ltd at the proposed Royal Pier Waterfront development, subject to four conditions agreed with the applicant, set out below;

**Conditions**

- Prohibiting visibility of gambling facilities from the exterior of the premises;
- Preventing access directly from the restaurant into the casino via the doors marked “controlled doors”;
- Requiring the operation of Challenge 25;
- Requiring the entry to the restaurant and any other secondary entrances to the casino to be supervised by staff who shall be SIA-qualified unless the need for such qualification is exempted under legislation, the controls at such entrances to be the same as those operated at the principal entrance.

- (ii) to exclude the default condition as to hours of operation.

After private deliberation the Committee reconvened and the Chair read the decision which included any conditions, however the full decision and reasons for the decision would follow. All parties would receive written confirmation of the decision with reasons.

### Reasons

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

The Committee is satisfied that Kymeira will be able to operate a casino which is regulatorily compliant, and that any casino would need to have an operating licence from the Gambling Commission which is subject to compliance with the Licence Conditions and Codes of Practice. This includes control of entry to prevent the admission of children.

The Committee has not considered the question of whether there may be crime and disorder in the vicinity arising from the operation of the casino. This is because there is no detailed design for the casino, nor detailed designs for the wider development. These are matters which may be considered in any future gambling premises licence application, the planning process and any application for a Licensing Act 2003 licence.

In the circumstances, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

The Committee was impressed with the Community Action on Responsible Gambling offered by a competitor and has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

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SOUTHAMPTON CITY COUNCIL  
LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 11 SEPTEMBER 2014

Present: Councillors Tucker (Chair), Lloyd, Painton, Parnell, Spicer and Whitbread

Apologies: Councillors Galton, Lewzey, Pope and Vassiliou

12. **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

Councillor Parnell declared a personal interest as being a trustee of the street pastors. Councillor Lloyd declared a personal interest as being a governor for Southampton City College. Councillors Parnell and Lloyd remained in the meeting and were advised they could take part in the decision making.

13. **LATE NIGHT LEVY - CONSIDERATION OF CONSULTATION RESPONSES**

The Committee considered the report of the Head of Legal and Democratic Services detailing responses to the consultation on the proposal to introduce a late night levy to Southampton.

The Cabinet Member for Communities, Mrs Walker and Mrs Barter (local residents), Mr Madden (Baizz Club) Mr Warne (TLT representing Greene King) and Chief Inspector Justin Roberts (Hampshire Constabulary) were present and with the consent of the Chair addressed the meeting.

**RESOLVED**

(i) that the introduction of a Late Night Levy in Southampton be recommended to Council to commence on 1 April 2015; and

(ii) that key provisions of the Late Night Levy be recommended as follows: that pursuant to section 132(1) of the 2011 Act:

- a. the date on which the late night levy requirement is first to apply is 1<sup>st</sup> April 2015
- b. for the first levy year and, subject to section 133 of the 2011 Act, each subsequent levy year:-
  - i. the late night supply period shall begin at one minute past midnight and end at 6 am;
  - ii. that the following permitted exemption categories as defined in regulation 4 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 are to apply:-
    1. regulation 4(a) – hotels etc. supplying alcohol for on-consumption by resident patrons;
    2. regulation 4(b) – theatres supplying alcohol for on-consumption to ticket holders, performers, guests at private events;
    3. regulation 4(c) – cinemas supplying alcohol for on-consumption to ticket holders, guests at private events;

4. regulation 4(d) – bingo halls where the playing of non-remote bingo is the primary activity;
  5. regulation 4(e) – registered community amateur sports clubs;
  6. regulation 4(f) – community premises like church halls and village halls, etc. that are subject to the alternative licence condition; and
  7. regulation 4 (i) – premises authorised to supply alcohol for on consumption only between midnight and 6 am on 1 January.
- iii. that the following permitted exemption category as defined in regulation 4 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 is not to apply:-
1. regulation 4(g) – single country village pubs in designated rural settlements which receive rate relief;
  2. regulation 4(h) – premises liable for the Business Improvement District levy.
- iv. that the following permitted reduction category as defined in regulation 5 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 is not to apply:-
1. regulation 5(1)(a) – members of business-led best practice schemes  
Save that if such a scheme is subsequently approved and adopted by the Council in accordance with paragraph 6 below that the Head of Legal and Democratic Services be authorised to administer the scheme and take all decisions in relation to it, including reductions in the levy payable by approved premises
  2. regulation 5(1)(b) – certain premises authorised to supply alcohol for on-consumption which receive small business rate relief.
- v. the proportion of the net amount of levy payments that is to be paid to the relevant local policing body under section 131 of the 2011 Act is 70 per cent.

- (iii) To authorise that the Head of Legal and Democratic Services has delegated powers to do all things necessary to implement these decisions, including:-
- c. Power to publish notice of the decisions in accordance with regulation 9(1)(b) of the Late Night Levy (Application and Administration) Regulations 2012;
  - d. Power to determine whether the holders of any relevant late night authorisations fall within any permitted exemption or reduction categories and in particular whether the holders of any relevant late night authorisations who are members of any subsequently approved business-led best practice scheme fall within the permitted reduction category
  - e. Subject always to the statutory role of Licensing Committee and its Sub-Committees, to make arrangements for free applications to vary authorisations before the beginning of the first levy year and determine such applications in accordance with regulations 9(1)(c) and 9(5) of the Late Night Levy (Application and Administration) Regulations 2012;

- f. Power to determine the aggregate amount of expenses of the Council that are permitted deductions under section 130(1)(b) of the 2011 Act;
  - g. Power to publish annual notices under section 130(5) of the 2011 Act relating to anticipated expenses and the net amount of the levy payments;
  - h. Power to make adjustments to payments in accordance with paragraph 7 of the Late Night Levy (Application and Administration) Regulations 2012;
  - i. Power to determine from time to time when and for what purposes the Council will apply the non-specified proportion of the net amount of the levy payments;
  - j. Authorisation to enter into an agreement with the Police and Crime Commissioner (PCC) and the Chief Constable regarding the use of the net amount of levy payments as a single programme and to establish a Late Night Levy Board (to include operators) to facilitate a single programme; and
  - k. Authorisation to create and implement a business-led best practice scheme that will satisfy the criteria contained in regulation 5(1)(a) of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 after consultation with the Police and Crime Commissioner, the Chief Constable, operators, and the Late Night Levy Board (if established).
- (iv) To note that the Head of Legal and Democratic Services shall review the operation and effect of the levy in 2017 (or earlier, if considered necessary) and report the outcome of the review to Licensing Committee.

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# Agenda Item 6

<b>DECISION-MAKER:</b>	LICENSING COMMITTEE		
<b>SUBJECT:</b>	GAMBLING ACT 2005 – LARGE CASINO LICENCE. PROPOSAL TO DELAY THE COMMENCEMENT OF STAGE 2		
<b>DATE OF DECISION:</b>	16 DECEMBER 2014		
<b>REPORT OF:</b>	HEAD OF LEGAL AND DEMOCRATIC SERVICES		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>John Burke</b>	<b>Tel:</b> <b>023 8083 2306</b>
	<b>E-mail:</b>	<b>casino@southampton.gov.uk</b>	
<b>Director</b>	<b>Name:</b>	<b>Mark Heath</b>	<b>Tel:</b> <b>023 8083 2371</b>
	<b>E-mail:</b>	<b>mark.heath@southampton.gov.uk</b>	

<b>STATEMENT OF CONFIDENTIALITY</b>	
None	
<b>BRIEF SUMMARY</b>	
The Licensing Committee is requested to consider the timetable for Stage 2 of the process in the light of the contents of the report.	
The report details the current situation in relation to the second stage of the Casino Licence which the Council had indicated would commence on 6 October 2014 and the reasons why it has not done so.	
<b>RECOMMENDATIONS:</b>	
	(i) that the Committee consider this report and the supporting information provided by the applicants;
	(ii) determine whether Stage 2 of the competition should commence immediately (i.e. as soon as practical) or be the subject of a delay as requested by the RPW developer; and
	(iii) determine whether the whole process should commence again.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1	Members will recall that Stage 1 of the Large Casino Licence was concluded on 4 September 2014 when the Committee decided to grant provisional statements in respect of all of the seven provisional applications that the Council received. Five of these applications related to the Council's preferred location, namely the Royal Pier Waterfront (RPW) site at Mayflower Park. The remaining two applications relate to two separate different sites.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2	One of the applicants, Gentings has suggested that the whole process be restarted completely. Members are recommended to dismiss this proposal as unnecessary and disproportionate to the issues in hand and without merit in these circumstances.
3	The draft timetable that the Authority indicated that Stage 2 of the process would commence on 6 <sup>th</sup> October 2014 but this was decided in April 2013. At

	the time of the 4 <sup>th</sup> September meeting, Council officers believed that Stage 2 of the process could feasibly commence as timetabled.
<b>DETAIL (Including consultation carried out)</b>	
4	On 19 <sup>th</sup> September 2014 the Authority received a letter from Aspers, one of the Applicants for the RPW site, to the effect that they had met with the developers and found that they were substantially behind schedule in terms of being able to deliver to an applicant the detailed plans that Stage 2 requires. A copy of their letter is attached in Appendix 3.
5	Aspers requested the Council delay the commencement of Stage 2 and intimated that if this was not agreed then they may have to consider withdrawing from the process as the information about the development was simply not available and unlikely to be within the indicative timescale.
6	On 24 <sup>th</sup> September 2014 an email was received from Grosvenor with a similar request specific to the RPW site although they didn't go as far as suggesting that they may withdraw from the process. A copy of their e mail is attached in Appendix 4.
7	Both of these requests were unsolicited.
8	This was the first moment that the Council were made aware of a potential issue with the timetable as it appeared that the developers were not and would not be in a position to provide the five applicants the detailed information that Stage 2 requires. A copy of the Council's information requirements that has been published on our website since 2013 is attached in Appendix 2.
9	<p>With these requests in mind and at the instigation of the Council's Economic Development department, a meeting was arranged with Lucent, the developer on 30<sup>th</sup> September 2014. The attendees and notes of the meeting are attached in Appendix 5. Members will observe that one of the attendees was Andrew Cotton, a solicitor who at that meeting was acting on behalf of Lucent, the developer. He has also acted for Kymeira Casino Ltd, one of the RPW site applicants. Whether Mr Cotton should or should not have been at the meeting has been the subject of concern among some of the Applicants. In hindsight, Mr Cotton should have been recorded at the meeting as representing the Lucent Group rather than representing an applicant. It is a fine distinction since Kymeira's application was backed by RPW, the developer.</p> <p>Given that the Council has declared a preferred site, it is imperative that the Council be kept up to date with developments as to the progress of the site as it is so closely intertwined with the Licensing process.</p>
10	Kymeira Casinos Ltd, as an applicant are supportive of the application to delay the start of Stage 2. Their e mail is detailed in Appendix 6. Email from Andrew Cotton.
11	Faced with this situation, the Council sent an e mail to each of the Applicants explaining the request from two of the Applicants, the fact that we had met with the developer and suggested that a common sense approach would be to delay Stage 2 for around 6 months, given that the Council has never made a secret of its desire to see the Large Casino as part of the RPW development.
12	Global Gaming Ventures (GGV) objected strongly to this approach and have put forward arguments that they were fully committed to having to commence Stage 2 on the indicated date, that they were not prepared to

	recognise any decision to delay and that they were progressing as though Stage 2 had commenced. Details of these assertions can be seen in Appendix 7.
13	Genting criticised the meeting of 30 <sup>th</sup> September 2014, the fact that Council officers attended a meeting with the developer and an applicant and that this was against the requirements of openness and transparency that are stipulated within the guidelines. Their response can be found at Appendix 8 where they have suggested that the Council commences the whole process again.
14	On 14 <sup>th</sup> November 2014 the Council wrote to each applicant to inform them that the matter of the delay would be heard at a Licensing Committee and that certain documents relevant to each individual applicant would be placed before the Committee subject to them consenting to the material being included.
15	The letters to each of the Applicants are detailed in Appendices 9 -13.
16	The responses that have been received are detailed in Appendices 14 (Aspers) and (GGV) 15 and 17 -19. Should any more be received between the drafting of this report and the meeting they will be sent through as additional documentation.
17	Lucent, acting on behalf of the RPW developer sent a letter dated 27 <sup>th</sup> November 2014 detailing their observations and reiterating their support that Stage 2 should not commence before April 2015. The letter is attached as Appendix 16.
18	It is intended that each Applicant will have the committee report prior to the meeting and be invited to address the Committee with their respective position. We have asked for written representations where possible in order to assist Members understand the competing arguments in advance of the meeting.
19	Should any additional information be received between the submission of the report and the Committee meeting, a copy will be made available to Members and Applicants.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
20	There are no direct financial implications from this report save that if applicants withdraw from being able to submit detailed Stage 2 applications in respect of the RPW site this may materially impact on the competition and the ability to achieve the "greatest benefit" [to the city] test as envisaged under the Gambling Act 2005.
<b><u>Property/Other</u></b>	
21	None
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
22	Gambling Act 2005
<b><u>Other Legal Implications:</u></b>	

23	Members are referred to the relevant extract from the Council's Statement of Principles that relate to the Gambling Act. This is detailed in Appendix 1.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
24	None

<b>KEY DECISION?</b>	No
<b>WARDS/COMMUNITIES AFFECTED:</b>	Bargate

**SUPPORTING DOCUMENTATION**

**Appendices**

1.	Extract from SCC 'Statement of Principles' Gambling Licensing Policy
2.	SCC documents detailing Council's requirements for Stage 2 of the process
3.	Aspers letter dated 19 <sup>th</sup> September 2014
4.	e mail from Grosvenor (Rank) dated 24 <sup>th</sup> September 2014
5.	Notes of meeting 30 <sup>th</sup> September 2014
6.	e mail dated 10 <sup>th</sup> October 2014 from Andrew Cotton on behalf of Kymeira Casinos Limited
7.	e mail from Bond Dickinson (GGV legal representatives) to SCC 7 <sup>th</sup> October 2014
8.	Genting Casinos letter dated 17 <sup>th</sup> October 2014 to SCC
9.	Letter to Aspers dated 14 <sup>th</sup> November 2014 detailing convening Committee meeting and documents that relate to their comments concerning the prospect of delaying Stage 2
10.	Letter to Gentings dated 14 <sup>th</sup> November 2014 detailing convening Committee meeting and documents that relate to their comments concerning the prospect of delaying Stage 2
11.	Letter to GGV dated 14 <sup>th</sup> November 2014 detailing convening Committee meeting and documents that relate to their comments concerning the prospect of delaying Stage 2
12.	Letter to Grosvenor dated 14 <sup>th</sup> November 2014 detailing convening Committee meeting and documents that relate to their comments concerning the prospect of delaying Stage 2
13.	Letter to Kymeira dated 14 <sup>th</sup> November 2014 detailing convening Committee meeting and documents that relate to their comments concerning the prospect of delaying Stage 2
14.	Letter from Aspers dated 19 <sup>th</sup> November 2014 in response to letter dated 10 <sup>th</sup> November 2014
15.	Note from GGV in response to letter dated 10 <sup>th</sup> November 2014
16.	Note from Lucent dated 27 <sup>th</sup> November 2014
17.	Annex 1 from GGV letter dated 10 <sup>th</sup> November 2014
18.	Annex 2 from GGV [DCMS Code of Practice] letter dated 10 <sup>th</sup> November



	2014
19.	SCC Procedure Note. Competition for grant of Large Casino Premises Licence. March 2013
<b>Documents In Members' Rooms</b>	
1.	None
<b>Equality Impact Assessment</b>	
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
<b>Other Background Documents</b>	
<b>Equality Impact Assessment and Other Background documents available for inspection at:</b>	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	<a href="http://www.southampton.gov.uk/business-licensing/licensing/gambling-act-2005/statement-principles.aspx">http://www.southampton.gov.uk/business-licensing/licensing/gambling-act-2005/statement-principles.aspx</a> (Southampton City Council's Gambling Statement of Licensing Principles - 1 January 2013)

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## **Extract from SCC 'Statement of Principles@ Gambling Licensing Policy**

### **Casinos and competing applications**

- 15.1** On 26 February 2008 the Secretary of State issued the Code of Practice on Determinations relating to large and small Casinos. The Licensing Authority will comply with this Code which sets out:
- (a) the procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005; and
  - (b) matters to which the Licensing Authority should have regard in making those determinations.
- 15.2** On 15 May 2008 the Categories of Casino Regulations 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 were approved and Southampton City Council was authorised to issue a Large Casino Premises Licence.
- 15.3** The Licensing Authority is aware that there are likely to be a number of operators who may wish to operate the large casino. As a consequence the Licensing Authority will stage a 'competition' under Schedule 9 of the Gambling Act 2005 and have regard to The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and the Code of Practice issued by the Secretary of State.
- 15.4** In accordance with the above regulations the Licensing Authority will publish an invitation calling for applications for the Large Casino Premises Licence. In addition, consideration of all applications will be deferred until the published closing date for applications.
- 15.5** Where the Licensing Authority receives applications for the Large Casino Premises Licence, there will be a two stage application process in accordance with the Code of Practice issued by the Secretary of State.

### **General Principles**

- 15.6** In the Code of Practice published on 26 February 2008 by the Secretary of State, it states that a Council should pay particular attention to the following in determining the principles or criteria they propose to apply:
- (a) protection of children
  - (b) crime and disorder
  - (c) fair gambling
  - (d) employment and regeneration
  - (e) design and location
  - (f) non-gambling facilities

- (g) financial and other contributions
- 15.7** The Licensing Authority recognises that applicants may either apply for a full Large Casino Premises Licence or alternatively a Provisional Statement. Applicants for full Large Casino Premises Licences however must fulfil certain criteria, in that they must:
- (a) hold or have applied for an Operating Licence; and
  - (b) have the right to occupy.
- 15.8** In making any decision in respect of an application, the Licensing Authority shall not take into account the likelihood of the applicant's obtaining planning permission or building regulation approval and any decision shall not constrain any later decision by the Authority under the law relating to planning or building. The Licensing Authority does, however, strongly recommend that planning permission is sought prior to submitting an application.
- 15.9** In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.
- 15.10** Southampton City Council intends to enter into a contract with development partners for the Royal Pier development and a casino element is intended to be part of the Royal Pier development with an application for a large casino premises licence forthcoming in relation to the site. This information is set out here so as to ensure that potential applicants are aware of this likelihood so as to ensure transparency. As a consequence, there can be no reason for the procedure to be or be perceived to be unfair in any way or perceived to be unfair by any applicant.
- 15.11** The Licensing Authority's decision will not be prejudged and where advice is sought, this will be impartial advice.
- 15.12** In making a decision on both stages of the procedure, the Licensing Authority will have regard to any Regulations, Guidance or Code of Practice issued by the Secretary of State, DCMS or Gambling Commission.

### **Casino Application Stage 1**

- 15.13** The Licensing Authority will provide an application pack that will include a Statement of the procedure that the Licensing Authority proposes to follow in assessing applications for Large Casino Premises Licence.
- 15.14** With regard to Stage 1, the General Principles as stated in Part B of this Gambling Licensing Policy shall apply to all casino applications.
- 15.15** Stage 1 – 'The Regulatory Test' will be implemented where the Licensing Authority receives a Premises Licence application or a Provisional Statement application. The Licensing Authority will consider each application separately on its own merit and with no reference being made to the other applications received.

- 15.16** At this stage the Licensing Authority cannot accept any additional information other than the prescribed application form laid down in The Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007. All such additional information will be disregarded and returned to the applicant.
- 15.17** The Licensing Authority recognises that each of the other competing applicants is considered an 'interested party' and as a result may make representations. Such applicants are however reminded that an interested party is defined in Part A of this Policy and each representation will be considered carefully to ensure it meets the principles set within this Gambling Licensing Policy.
- 15.18** Representations will be treated in the same manner as for a Premises Licence and in accordance with paragraphs relating to Representations in this Policy and the Principles for deciding on interested parties as stated in this Gambling Licensing Policy. It is recognised that the Licensing Authority's decision may be appealed against, in which case the Licensing Authority will not proceed to Stage 2 until all appeals have been dealt with.
- 15.19** If this process results in more than one provisional decision to grant a Premises Licence, Stage 2 – the "Greatest Benefit" test, will be implemented.
- 15.20** Where a Provisional Statement application is successful, the Licensing Authority may limit the period of time for which the Provisional Statement will have effect. This period may be extended if the applicant so applies.

**Casino Application Stage 2**

- 15.21** The Licensing Authority will not consider any Stage 2 applications until the closing date for applications in the competition.
- 15.22** At Stage 2, the applicant will be required to state what 'greatest benefit' they can bring to the residents of Southampton and how they can contribute to the wellbeing of the area.
- 15.23** Details of the Licensing Authority's evaluation criteria and an explanation of the proposed process will be part of the Application Pack that will be sent to applicants.

**Principles that apply in determining whether or not to grant a Casino Premises Licence.**

- 15.24** The Licensing Authority shall determine which of the competing applications, would in the authority's opinion, be likely if granted to result in the greatest benefit to the authority's area. The competition will be judged on a wide range of issues, reflecting the issues that are important in the City of Southampton, local concerns and local priorities, with a particular focus on tourism, employment opportunities, physical regeneration opportunities and financial contributions.
- 15.25** The Licensing Authority may during the second stage engage in discussions or negotiations with each second stage applicant with a view to the application being refined, expanded or altered so as to

maximise the benefits to the area. If discussions are with a view to particulars of the application being improved or altered (rather than merely clarified or particularised), the same invitation will be offered to all other applicants so as to ensure transparency. Where oral discussions occur these will be fully minuted.

- 15.26** The Council and the Licensing Authority does have a preferred specific location for a large casino as part of the Royal Pier and Mayflower Park redevelopment project. This site was previously identified (amongst others) as part of the Council's submission to the Casino Advisory Panel. However, all proposals will be judged on their own individual merits regardless of their location. Nevertheless, given the importance placed on the ability of the proposal to deliver large scale physical regeneration and tourism potential, areas of Southampton that already have substantial visitors/tourists would be most likely to be at a disadvantage when judged against a proposal which anchors a new infrastructure project.
- 15.27** Where an applicant presents proposals for consideration by the Licensing Authority, they will be requested to prepare a draft Legal Agreement committing themselves to the proposals being made in advance of consideration by the Licensing Committee. The Licensing Authority regards the completion of a legal agreement as being of great importance in securing the delivery of the benefits proposed. A decision by the Licensing Authority to approve an application will provide the requisite authority for the Council to enter into the Agreement, subject to any legal challenge to the Authority's decision. The form of such Legal Agreement will be provided in the application pack. In the event that the successful applicant fails to carry out the proposal in accordance with the Legal Agreement, the Licensing Authority may receive liquidated damages. Adherence to the Agreement will also be a condition on the Premises Licence so that a breach of the Agreement may result in a review of the Licence.
- 15.28** In the event that the successful operator does not open a casino within the agreed timescale, then the Licensing Authority has the power to revoke and in doing so the Licensing Authority may elect to run a new competition.

**The applicant will be expected to provide:**

- 15.29** At Stage 2, Applicants will be required to satisfy criteria and the evaluation matrix that will be set out in the Application Pack. The following information will be required from the Applicant at Stage 2 to allow the Licensing Committee to evaluate the proposals. This list is not exhaustive and Applicants may choose to provide additional information providing it is relevant to the Application. The Licensing Authority may request additional information to clarify certain elements of the application proposals.
- 15.30** A scale plan (1:100 preferred) of the premises indicating the location of all gaming machines, tables and automated telling machines, bars and any non-gaming areas, together with an indication of any Notices/Rules that will be displayed in the gaming area.

- 15.31** Detailed numbers of all staff and Personal Licence Holders to be employed, together with a clear management structure.
- 15.32** A description of all activities carried on at the premises, including any proposals for the provision of late night refreshment and regulated entertainment. With regard to late night refreshment, the Licensing Authority would wish to have sight of the menu to ensure substantial refreshment and not just bar snacks will be provided.
- 15.33** An indication of the proposed location of the casino which should be sustainable and appropriate, taking into account residential properties, public buildings, public transport routes and accessibility, public realm and open space.
- 15.34** An indication of the availability of the site and the applicant's capacity implement their proposals.
- 15.35** Evidence of availability of funding and an estimated cost of the scheme.
- 15.36** Evidence of financial standing including submission of the applicant's last 3 years' audited financial accounts, together with 2 financial references confirming that there is sufficient finance in place to ensure delivery of the project.
- 15.37** Two professional references should evidence that the applicant has proven ability and track record within the casino gambling sector.
- 15.38** Submission of a clear and detailed business plan supported by a signed agreement in a form that is acceptable to the Council, committing the applicant in the event that his application is successful to the proposals that he has put forward.
- 15.39** A timescale for implementation and completion of the works setting out the various project stages of construction. This is to enable the Licensing Authority to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion.
- 15.40** Evidence of ongoing consultation with statutory bodies and responsible authorities to ensure that all statutory regulations/legislation are to be complied with.
- 15.41** Details of consultation with relevant stakeholders, including the Police, Public Health and Safeguarding bodies.
- 15.42** Evidence of a satisfactory employee training plan. The training must cover all relevant matters with a focus on the statutory Licensing Objectives, knowledge of the gambling legislation, an awareness of problem gambling and all relevant internal procedures. In addition, applicants are required as part of their training plan to evidence customer service training and a knowledge of the local area.
- 15.43** An example of an existing Premises Log Book, recording all staff training undertaken and confirming that a two-tier system will be used whereby staff are trained to their level of responsibility with senior staff trained to a higher level so as to ensure that they can effectively apply

procedures and respond appropriately to any customer requesting information, or assistance.

- 15.44** Evidence of Policies and Procedures in place to protect children and vulnerable persons from harm.
- 15.45** A Policy detailing the applicant's internal procedures so that 'problem gamblers' are identified at the earliest opportunity. This Policy should be incorporated into the Training Plan for all employees. The Policy is likely to set out how advice and support will be provided to those engaged in or affected by problem gambling.
- 15.46** A Policy detailing the applicant's commitment to educating the community on 'problem gambling'.
- 15.47** A commitment to both annual financial and physical time contributions to GamCare/RGT and locally identified problem gambling initiatives.
- 15.48** An Admissions Policy incorporating procedures for the Door Supervisors to follow so as to manage the non-entry of drunken individuals, under age persons and any non-compliance with the stated entry dress code.
- 15.49** A copy of the operator's Social Responsibility Policy and the casino rules for each gambling activity on offer.
- 15.50** A commitment to providing within the gaming area a specific practice area or room that enables any customer to learn how to gamble on the various activities offered without feeling intimidated or embarrassed. There shall be information provided that emphasises the importance of customers staying in control of their gambling, the steps they can take to achieve this and where to access help should they become concerned about their gambling. There should be leaflets and information clearly displayed setting out these points.
- 15.51** An indication on the plan where the separate non-gambling refuge area of the premises is located. This area should provide a refuge from gambling and could be by way of a non-threatening sound proofed quiet room that is always available for those concerned about their own or someone else's gambling. Within this room there should be installed the facility to telephone the national helpline, access an online counselling facility or contact a local face-to-face counselling service or GamCare/RGT. Leaflets with contact addresses and telephone numbers should be prominently displayed within this room.
- 15.52** Evidence on how the proposal is likely to benefit the City of Southampton, in terms of an assessment of the social, economic and physical impact.
- 15.53** Proposals for the location of the casino and any other facilities to be provided, along with how site selection, design and architecture will improve the surrounding area and street scene.
- 15.54** Proposals as to how a casino will assist with the delivery of further tourism, leisure and regeneration opportunities for Southampton and complement the strategies of the Council in this regard.



- 15.55** A marketing policy which explains how the proposal will promote Southampton in line with the Council's own strategies.
- 15.56** Details on how the proposals will directly assist sustainable job creation, local economic benefit and regeneration, learning and skills uplift. This should include local labour agreements to support young unemployed people in the city.
- 15.57** The applicant should evidence clearly how they intend to promote the statutory Licensing Objectives.
- 15.58** The applicant should clearly set out the level of financial contribution that will be offered as the 'greatest benefit' and made conditional in the event that the licence is awarded that will support the matters previously referred to in this Policy.

### **Evaluation Process**

- 15.59** The Licensing Authority does not necessarily have all the necessary expertise in-house that it may need; so it may in certain circumstances seek advice on an applicant's proposal from Council Officers and/or external consultants/advisors.
- 15.60** The Licensing Authority may set up an Advisory Panel to assist in the evaluation of the Stage 2 application process. Members of this group will comprise individuals who are not biased or perceived to be biased and whose personal interests will not compromise their independence. They will be individuals who are able to maintain the confidentiality on which the integrity of this process depends. It will be for the Licensing Authority to determine which individuals would best represent the interests of the community. Where such an Advisory Panel is formed, the Licensing Authority will provide written terms of reference for the Advisory Panel so as to ensure that the process is open and transparent. The Licensing Authority alone will make the final decision on the successful applicant.
- 15.61** The Advisory Panel may elect to interview applicants. If so all applicants will be interviewed. The purpose of the interview will be to clarify the detail of the application and not to negotiate with the applicants. All interviews will be minuted. The Panel will supply its draft evaluation to the relevant applicant so as to enable them to correct any factual errors or to make representations as to the scoring on the qualitative evaluation. No new information will be accepted at this stage. Following any reply in writing by the applicant, the Panel will complete its assessment and forward it together with the applicants' representations to the Licensing Committee.
- 15.62** The Licensing Committee will receive advice from the Advisory Panel and will determine the application in accordance with its terms of reference. Any legal advice required shall be supplied by the Council's Legal Services' representative.
- 15.63** The decision on the successful applicant will be made public and the reasons published on the Council's web site, with any necessary redaction to preserve commercial confidentiality.

- 15.64** The Licensing Committee members will be able to consider all the applications and award their own scoring as considered appropriate using the competition principles and weighting document in the application pack. The Casino Licence or Provisional Statement will be offered to the highest ranked applicant at Stage 2, subject to completion of the Legal Agreement being accepted. If the Agreement is not completed then the Licensing Authority reserves the right to make the award for the next ranked applicant.
- 15.65** The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable. Once a decision has been made by the Licensing Committee there will be no right of appeal against this decision.
- 15.66** In accordance with the Code of Practice issued by the Secretary of State, the Licensing Authority shall ensure that there is a Register of Interests in place disclosing interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant. The Register will be published on the Council's web site; alternatively a hard copy will be made available upon request free of charge. However, applicants should note that this does not apply to any agreement between the Licensing Authority and applicant entered into during the second stage of the competition. The Register will be update as required during the application process.
- 15.67** In addition, the Licensing Authority shall have a Protocol governing the storage of confidential information submitted during the second stage to maintain confidentiality. This Protocol will be available on the Council's website or a hard copy will be available from the Council's offices upon request.

## STAGE 2: APPLICATION FORM NOTES FOR GUIDANCE

Please note, the applicant is required to lodge:

- 12 sets of the form and all plans and attachments. Each complete set should be filed in an indexed, tabbed lever arch file. All printing should be double-sided.
- A CD containing a complete set of the documentation.
- Applications must be securely packaged and clearly marked '*Private and confidential*'.
- Applications should be submitted to the following address:

Licensing Team  
Southampton and Eastleigh Licensing Partnership  
PO Box 1767  
Southampton  
SO18 9LA

### Part 1 – Applicant details

- 1.1 The name given must be the same name given at Stage 1 of the competition, and in the applicant's operating licence or application for such a licence.

### Part 2 – Premises Details

- 2.1 The applicant should give the title and number of each plan submitted as part of the application. This should include and conform with the plans submitted at Stage 1.
- 2.2 It is recommended that the plans should be as full as possible so as to provide sufficient detail of the development to enable a judgment to be made regarding likely benefits to the area.
- 2.3 Floor plans should include (where relevant) table gaming areas with indicative table layouts, machine areas, card rooms, tuition areas, cooling off / self help areas, bar and restaurant areas, non-gaming lounge or other recreation areas, entertainment areas or stages, events facilities, disabled facilities (including consideration given to counter heights and level changes), kitchen areas, staff changing, hygiene and recreation areas.
- 2.4 Elevation plans should demonstrate the quality of the elevational treatment, and whether gaming facilities will be visible from the exterior of the building.
- 2.5 Site plans should show the extent and quality of car parking, taxi waiting areas, provision for non-motorised and public transport, walking links from other developments, together with off-site security provision for customers (e.g. lighting and CCTV).
- 2.6 Where the proposed casino is part of a wider development, the plans should demonstrate the overall development.
- 2.7 The Authority will generally wish to include plans in the premises licence by condition, so as to ensure that the casino development proposed is delivered. If the applicant is offering the plans as illustrations only, and therefore not to be included in the premises licence, the applicant should explain its reasons.

### **Part 3 – Summary Information**

- 3.1 Part 3 requires summary information of key facts as detailed. Applicants are given the opportunity to expand on this information in Part 4 it is therefore intended that answers provided to questions in Part 3 are specific and succinct.
- 3.2 The form asks a number of questions regarding the gaming provision on site. The applicant may submit an operating plan describing the style and nature of the casino in greater detail, should it so wish. In addition to the matters set out in the form, the applicant may describe its proposals as to minimum staking levels, so as to permit low stakes gambling in the casino. If there is a proposal to offer low- or no-stakes gambling, the applicant should give details of the provision, including the times and numbers of tables involved, and state whether it is prepared to submit to a condition to require such provision, and suggest the drafting of such a condition.
- 3.3 The applicant should describe its non-gambling facilities. The Authority is seeking to ensure that a high quality Leisure and Entertainment Destination (LED) is created in which gambling is only part of the overall entertainment offer. It wishes to guard against a proposal for non-gambling facilities which results in only token provision. The applicant should therefore describe its proposals in summary detail in Part 3 and provide further detail in Part 4.
- 3.4 The applicant is asked to state whether the casino is part of a wider development. Where it is, the applicant should state whether the casino is dependent on this development, giving the timetable for this development, and indicating any constraints on delivery. Please note that the authority is not entitled to take into account whether the proposal is likely to be permitted in accordance with the law relating to planning or building.

### **Part 4 – Evaluation Criteria and Scoring Matrix**

- 4.1 In this section the applicant is invited to state how deliverable the scheme is and what benefits it will realise.
- 4.2 The applicant should clearly structure its submissions around the criteria in the attached document “Evaluation Criteria and Scoring Matrix for a Large Casino in Southampton” since these will form the focus of the Authority’s consideration. Applicants may provide additional information to illustrate their case as they see fit.
- 4.3 The Authority considers that “benefit” includes avoidance of disbenefit. Further, the authority is concerned with net benefit, so that if there are benefits which are likely to arise even if the application is not granted, the applicant may wish to focus on the added value which a 2005 Act casino licence would bring.
- 4.4 It is important that the Authority is satisfied that promised benefits will be delivered in the time stated and maintained thereafter.
- 4.5 The applicant is invited to deliver a raft of information to provide assurance that it has the financial standing and intention to deliver the scheme. If the applicant or an associated company has been granted casino licences which it has not developed, or has closed or disposed of, the applicant is invited to explain the circumstances so as to satisfy the Authority that there is no such intention in this case.
- 4.6 Applicants are invited to contract with the Authority for provision of the benefits and to state what compensation will be offered if the benefits are not delivered. A draft Schedule 9 agreement is attached to the form, for completion by the applicant.

Compliance with the agreement will be made a Licence condition, if granted. Applicants are invited to state whether they agree to such a condition.

- 4.7 Measurable benefits for inclusion in the contract can take any form. They may include (for example) the promotion of physical regeneration, tourism, employment opportunities and financial contributions. The pro forma agreement allows the applicant to include whatever benefits the applicant wishes the Authority to take into account.
- 4.8 The Authority wishes to guard against granting a licence to a scheme which is not then delivered on time or at all, or which then closes or otherwise changes so as no longer to deliver promised benefits. The applicant should consider and include in the agreement its proposals for compensation by way of liquidated and ascertained damages should the promised benefits not be delivered or maintained.
- 4.9 Where the applicant is unable to demonstrate the financial standing to build and operate the casino over a long period, it should consider offering a guarantor to secure its obligations.
- 4.10 The applicant is invited to present its case in whatever format it considers best. The Authority is keen to encourage imaginative and interesting proposals for maximum benefit, and so leaves it to applicants to present their material as they wish.

#### **Part 5 – Contact details**

- 5.1 Any contact in relation to this application will be between the person nominated in this section and the single point of contact at the Authority, so as to ensure a proper record of communications. The person nominated should therefore have authority to act for the applicant and sufficient knowledge to be able to communicate efficiently with the Authority. This can be, but does not have to be, the applicant's solicitor.

#### **Part 6 – Declaration and signature**

- 6.1 The form should be signed by a person who is authorised by the applicant, and who takes personal responsibility for the accuracy of the content of the form and attachments.

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ASPERS

M. Grout Esq.  
Locum Licensing Officer  
Licensing Department  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council  
PO Box 1767,  
Southampton SO18 9LA

19 September 2014

Dear Sir

### **LARGE CASINO COMPETITION**

We are delighted that we have satisfied the Stage 1 criteria and are able to proceed to Stage 2 of the competition.

I am writing to you however, to express our concerns about the timing of the Stage 2 process. In order to put together a coherent and sensible proposal for the second stage of the competition, we and indeed our competitors, will require more information about the Royal Pier development.

The type of information we need, will include a more detailed overall Masterplan, a timeframe and phasing for development and most importantly greater precision of exactly where the casino will be located within the overall project and its relationship with the proposed hotel and other retail/ leisure uses. Unfortunately we do not believe this information is available at the moment.

These items are required so we can formulate a sensible financial model that, we believe will enable us to offer the best GVA and Financial Contribution for the benefit of the City of Southampton. Without this information we will find it difficult to compile a competitive proposal and therefore regrettably, we will have to consider seriously whether we are prepared to go to the time and expense of entering the Stage 2 process.

Therefore we would ask that you consider deferring the second stage of the competition until such time that the Royal Pier developer is able to provide the information referred to above. This will enable us and our competitors to submit our best proposals that give best value to Southampton.

Yours faithfully

Martyn Kennedy  
Finance Director

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## Email from Grosvenor

From: Simon Bishop [simon.bishop@rank.com]

Sent: 24 September 2014 16:00

To: Grout, Martin

Subject: Stage 2 Timetable

Dear Martin,

Following a meeting with the developer of Royal Pier today it is clear that the level of detail about the scheme required for a Stage 2 submission is not available at this time.

As a result I write to formally ask for a delay to the commencement of Stage 2 proceedings to allow for the detail of the scheme to be further advanced. This will I believe be of benefit to all parties involved and produce a superior development.

I understand you have a meeting arranged for early next week with the developer and no doubt they will be making a similar request. In terms of timing we would request a minimum extension to February 2015.

Yours sincerely

Simon

Simon Bishop  
Director of Acquisitions  
The Rank Group Plc  
Mobile 07860 910301

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### NOTE OF MEETING AT SCC CIVIC CENTRE TUESDAY 30<sup>th</sup> SEPTEMBER 2014 CONCERNING STAGE 2 OF THE CASINO LICENCE PROCESS.

#### PRESENT:

Richard Ivory	SCC Head of Legal and Democratic Services
Martin Grout	SCC Locum Licensing Officer
Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

- Mr Nayak stated that they had been in discussions with all the 4 operators that submitted Stage 1 applications. The clear message that they have had from the majority of them is that they need a significant level of detail to be able to complete the Stage 2 application requirements, in particular there are detailed questions asking about the relationship between the proposed development and casino.
- He pointed out that the current timetable was set c. March 2013 and at a time when it was reasonably anticipated that the CLDA would be signed by no later than Sept 2013 and therefore the April 14 Stage 1 start was entirely sensible. However given the additional time required to deal with, amongst other things, Associated British Ports' points and Lucent Fund matters, the CLDA was not signed until late Feb 2014. The Casino timetable was however inadvertently overlooked and it was not until very recently that operators understood what was required at Stage 2.
- RPW (the Developer) is currently focussed on key obligations under the CLDA to move the Red Funnel ferry terminal to the Trafalgar Dock site. This is, he said, a fairly complex exercise and it is their priority obligation, along with land reclamation. The land reclamation area will house the commercial development including the casino. In addition they are reviewing and developing the indicative mixed use commercial scheme and have started market discussions. The Casino needs to dovetail into the scheme in terms of both masterplan and commercially and will need to therefore get the view of all potential operators on proximity/location.
- The original timetable set allowed for a c. 6 month period between the signing of the CLDA and the start of Stage 1, this time period is what they require currently to be able to work up a scheme with each operator to support their stage 2 submission. They would therefore hope that the council would be mindful to start the Stage 2 process in April 2015.
- Providing the additional time would ensure:
  - Robust and high quality proposals are provided that will better inform the Stage 2 scrutiny process and deal with a wide range of matters to a greater degree than is likely to be the case under the current timetable,

(and to ensure that the casino aspect of the development was effectively controlled in terms of any clear effective licensing conditions applied to a detailed comprehensive development )

- All proposals would be reviewed in advance by the Regeneration Team on the following basis:
  - The quality of the proposed development,
  - Planning considerations and
  - Proposals complied with any CLDA obligations, prior to the scrutiny of the Stage 2 Panel to ensure that each scheme met with licensing obligations.
- RPW would have a high degree certainty of being able to fund and deliver agreed regeneration outcomes via the final scheme with the operator selected by the Council's Licensing Panel.
- Each applicant has an equal chance to secure the award of a licence
- The council securing the greatest benefit to its preferred site from the licensing process

# Agenda Item 6

## Appendix 6

**From:** Andrew Cotton  
**Sent:** 10 October 2014 15:46  
**To:** 'Grout, Martin'  
**Subject:** RE: Casino Licence Process Stage 2

Dear Martin

Thank you very much for your letter and the notes of the meeting on 30<sup>th</sup> September.

I can confirm that Kymeira Casino Limited endorse the proposal to defer the start of Stage Two of the casino competition. We see this being the only way that each second stage applicant can be given an equal opportunity to demonstrate how their application would result in the greatest benefit to the authority – as required in paragraph 5.4.2 of the Code of Practice.

The developer of the Royal Pier site has indicated that it is not possible at this stage to provide those who have secured Stage One grants on the site with the detail required to submit a Stage Two application as a result of the delay in the completion of the Development Agreement for the site. The development programme has slipped approximately six months from the projected timetable at the time the competition commenced in April. This is partly because the consultation process on the planning application has slipped as a result of the appointment of new planning consultants and designers. I understand that pre-application discussions are now under way.

A delay of six months, with a commencement date for the Stage Two process at the beginning of April, will hopefully ensure that the detail of the site and the lay-out and mix of uses has been “approved in principle”, which will then allow applicants to answer the questions in the Stage Two application form which seek an explanation as to the relationship between the casino and the remainder of the Royal Pier development. It is simply not possible to answer these questions with the information that is currently available.

When addressing the Committee at the Stage One hearings Counsel made it clear that the plans were at a very early stage and therefore all the applicants and those who made representations are aware of the lack of detail about remainder of the development. Indeed one of the objectors referred to the lack of public consultation in relation to planning for the site. A six month delay will enable this process to be concluded.

Counsel also referred to the relocation of the Red Funnel terminal, which is another matter that has to be approved before the work on the land reclamation to create the site can start.

Please do not hesitate to contact me should you need any clarification on the matters I have raised. I look forward to receiving confirmation of the decision that is taken on the Stage Two timetable.

Regards,  
Andrew  
Andrew Cotton  
Solicitor  
**for Jeffrey Green Russell Limited**

Direct Tel: ++44 - (0)20 7339 7173

Direct Fax: ++44 - (0)20 7307 0277

[www.jgrweb.com](http://www.jgrweb.com)

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-----Original Message-----

From: Macgregor, Ewen [mailto:ewen.macgregor@bond Dickinson.com]

Sent: 07 October 2014 14:28

To: Grout, Martin

Subject: Southampton CC Large Casino Licence Process Gambling Act 2005

Importance: High

Dear Sir

We acknowledge receipt of your letters and enclosure. Our clients continue have a number of serious concerns.

To enable us to respond substantively can you please confirm what procedure the authority proposes to adopt in deciding whether or not to interrupt and delay the casino competition process, the Stage 2 part of which has now commenced.

Until such time as a decision to delay the process has been properly made by a competent body of the authority, please be advised that our clients will continue to proceed on the basis that the Stage 2 part of the competition process is underway in accordance with the previously announced timetable.

We look forward to hearing from you as a matter of urgency.

Yours faithfully,

Bond Dickinson

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# GENTING CASINOS

UNITED KINGDOM

### By email and post

Licensing Team  
Southampton and Eastleigh Licensing Partnership  
PO Box 1767  
Southampton  
SO18 9LA

[casino@southampton.gov.uk](mailto:casino@southampton.gov.uk)

17<sup>th</sup> October 2014

Dear Sirs

### Gambling Act 2005 – Large casino licence

We refer to your letter of 7 October 2014 formally asking for comments on the proposal by Southampton City Council (the "Council") to defer the commencement of Stage 2 of the application process regarding the grant of a large casino licence in Southampton ("Stage 2").

We do not feel able to comment fully on the proposed deferral ahead of receiving some important further information which we consider will be relevant to formulating our formal response. This information is reflected in the questions below.

1. Can you please explain the purpose of the meeting on 30 September 2014 between the Council and representatives for Kymeira, Lucent Group and Terence O'Rourke. Please include in your response an explanation regarding who instigated the meeting and the relationship between those represented at the meeting – both as between themselves and as between the attendees and the developer of the proposed site at Royal Pier, RPW.
2. Will you please provide further details of the representations received from Aspers and Grosvenor whom you state have also requested a deferral of Stage 2.
3. Can you please confirm that the notes of the meeting held on 30 September 2014 are complete and accurate. We raise this because some items appear incomplete; for example, the first bullet point states that Mr Nayak reported that "*they had been in discussions with all 4 operators that submitted Stage 1 applications*". However, as is apparent from the Council's website, five applicants had proposed to site a casino in the Royal Pier development: Aspers, Genting, Global Gaming Ventures, Grosvenor and Kymeira.
4. We are also concerned that there may be a challenge to the Council's final decision given the apparent bias the Council has in favour of the casino being situated at Royal Pier. We have previously raised our concerns about the Council's bias in favour of Royal Pier (see, for example, our letter of 8 March 2013, a copy of which is attached). Indeed, as we were unable to obtain an assurance that the bias would be rectified, we took a decision to only apply for a licence for a casino at Royal Pier as to have made an additional application at another site would only have resulted in material wasted time and expense, particularly at Stage 2. For that reason, and as foreshadowed in our letter of 8 March 2013, "*it is likely that prospective applicants will consider that the successful application for the Proposed Licence is predicated on locating the casino at Royal Pier [and] that ... prospective applicants are likely to proceed on that basis*" which is

### Genting Casinos UK Limited

**Registered Office:**  
Genting Casinos UK Limited,  
Genting Club Star City,  
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Fax: 0121 325 7761

**London Office:**  
Genting Casinos UK Limited,  
31 Curzon Street,  
London  
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Tel: 020 7493 7771  
Fax: 0207 629 3257

**Liverpool Office:**  
Genting Casinos UK Limited,  
151 Dale Street,  
Liverpool  
L2 2JW  
Tel: 0151 237 6000  
Fax: 0151 237 6000

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precisely what we (and perhaps Aspers and Kymeira) did. More recent events have confirmed that our concerns about the Council's bias in favour of Royal Pier were well-founded. For example, when announcing the companies that had been successful at Stage 1, the Council's website noted that "*The new casino is likely to be located at the proposed £450 million Royal Pier development, although two of the seven bids were for different sites*". There is no basis on which SCC can make such a statement before Stage 2 had been completed (let alone before it has even commenced) and doing so confirms our concerns about the Council's bias. The comment about the likely location of the proposed casino goes even further than the comment in the last bullet point of the notes of the recent meeting that Royal Pier is the Council's "preferred site". We are therefore concerned that an unsuccessful applicant may seek a judicial review of the Council's decision if, as we expect, a licence is in due course awarded to an applicant to operate a casino at Royal Pier.

We hope you can appreciate why the comments above explain why we consider why we cannot properly comment on the proposed deferral of Stage 2 until we have received the answers to our queries set out at paragraphs 1, 2 and 3 above. Once we have received answers, we will be in a position to make our formal comments as requested.

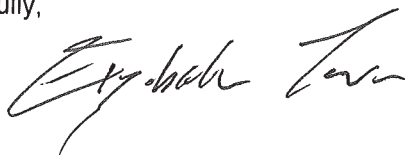
In any event, given the issues identified in paragraph 4 above, we consider that – subject to the answers to our queries – the most appropriate course of action would in fact be to restart the whole application process, including re-opening Stage 1 applications. That would be likely to result in mitigating the possibility of the eventual outcome of Stage 2 of the current process being challenged. Although restarting the entire application process may result in further delay before a decision is announced, in the long run it may actually ensure that the people of Southampton can benefit from a new casino earlier than might otherwise be the case if doing so reduces the likelihood of a challenge to the outcome of the current Stage 2 process. As the Council's overriding objective must be the benefit of residents of Southampton, the Council may practically have no other option. For our part, in light of the information that has subsequently confirmed our suspicions, we based our evaluation of the best approach to Stage 1 on the Council's strong stated preference for Royal Pier, thereby effectively excluding other sites from any realistic prospect of success. In addition, if the clear bias of the Council in favour of Royal Pier were removed that might also reduce the likelihood of the Council's final decision being challenged on the basis that the Council had failed to ensure that the interests of residents of Southampton were adequately provided for. In this respect you will recall that we noted in our letter of 8 March 2013 that "*it is widely expected that the Council will award the Proposed Licence to an application for a siting the casino at Royal Pier, that might reduce the number of applications and viable alternative proposals, thereby depriving the Council from considering a wider range of possibilities which might deliver better long-term benefits to the city of Southampton and its residents*".

Whilst restarting the entire application process may result in further delay before the Council's decision is announced, we do not consider that it will lead to any delay before the casino will actually open. This is especially true if Royal Pier is the site that is eventually chosen. That is because the works required for the Royal Pier site include land reclamation which has yet to begin, and so construction works appear to be several years away at the earliest. Therefore, the delay (if any) caused by restarting the Stage 1 application process will not lead to any detriment to the residents of Southampton as it will have no material (if any) impact on when a casino is likely to open even if Royal Pier is the chosen site.

We look forward to receiving answers to our queries as soon as possible, at which point we will respond promptly to the proposed deferral of Stage 2. Although you will understand that we must reserve all our rights should the Council decide to defer Stage 2 before we have had an opportunity to properly respond once in possession of all relevant facts, the outline of our expected overall position can be derived from this letter and we hope that will be helpful to the Council.

Yours faithfully,

enc.



LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council

Licensing Services

Civic Centre

Southampton SO14 7LY

Direct dial: 023 8083 2749

Our ref:

Your ref:

Aspers Universal Ltd

1 Hans Crescent

London

SW1X 0JD

Please address all correspondence to:

**Licensing – Southampton City Council,**

**PO Box 1767, Southampton, SO18 9LA**

E-mail: [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Please ask for: Martin Grout



FAO Martyn Kennedy

14<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – ASPERS CASINO; ROYAL PIER; MAYFLOWER PARK**

Further to my letter of 10<sup>th</sup> November I am pleased to confirm that the Licensing Committee has been arranged for 16<sup>th</sup> December 2014 at 10 am in Committee Room at the Civic Centre. You are welcome to attend but we would ask you to submit any written submissions prior to the meeting such that it can be included within the contents of the report. The purpose of the written submission is to allow Members to be aware of the arguments in advance and not to prevent you or your client from addressing the committee on the day.

We believe that the attached correspondence is relevant to the specific issue of the Stage 2 commencement date and accordingly propose to include this within the committee report.

Please let me know if you disagree, with reasons, with our opinion and also if you believe we have omitted any document that you feel should be included.

I would be grateful if you could respond within the next 7 days and detail your position with respect to the issue in hand, namely the proposal to defer the commencement of Stage 2 of the process.

We will then send you a copy of the report prior to the hearing so that each party will be in a position to identify the position of each applicant.

I look forward to hearing from you.  
Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. O'Connell'.

Locum Licensing Officer  
for Head of Legal and Democratic Services

APPENDIX 1

**ASPERS UNIVERSAL LTD**

DETAILS OF DOCUMENTS CONSIDERED RELEVANT TO THE ISSUE OF THE COMMENCEMENT OF STAGE 2 OF THE LARGE CASINO PROCESS.

		Date	Time
1.	e mail Martin Grout to Harris Hagan	05/09/2014	10.08
2.	e mail Martyn Kennedy to Martin Grout	19/9/2014	11.28
3.	Letter Aspers to SCC (attached to above)	19/9/2014	
4.	e mail Martin Grout to Martyn Kennedy	22/9/2014	18.09
5.	e mail Martyn Kennedy to Martin Grout	26/9/2014	09.30
6.	Letter SCC to Harris Hagan	7/10/2014	
7.	Notes of meeting of 30 <sup>th</sup> September 2014	7/10/2014	
8.	e mail John Hagan to Martin Grout	8/10/2014	12.48
9.	Letter to Aspers	10/11/2014	

**Item 1**

**From:** Grout, Martin [mailto:Martin.GROUT@southampton.gov.uk]

**Sent:** 05 September 2014 10:08

**To:** Grout, Martin

**Cc:** Andrew Cotton; 'elaine.whittle@rank.com'; 'joanne.morgan@bonddickinson.com'; 'davidnroberts@eversheds.com'; 'hagan@harrishagan.com'; 'Macgregor, Ewen'; 'Grimes, Becca'; 'Francesca Burnett-Hall'; 'Philip Kolvin QC'; Ivory, Richard

**Subject:** Stage 1 Licensing Committee meeting

Dear All

Please note that the decision notices are now available on <http://www.southampton.gov.uk/business/licensing/lqcsno/default.aspx>. The minutes of the meeting will be available in a few days time but I'm sure the important documents are on the link above.

Thank you to all the applicants who attended yesterday and helped the meeting go smoothly and to finish at a very reasonable hour. I apologise to those who had their representations withdrawn at the 11<sup>th</sup> hour but at least they were withdrawn.

Could I ask you to have a look at the stage 2 documentation which can be found at: <http://www.southampton.gov.uk/business/licensing/lqcsno/lcapps.aspx> and let me have any comments by Friday 19<sup>th</sup> September. If you focus on documents 12 – 20 it would be helpful but please note that document 16 will be updated with the current list of Members so you need not worry about that. As for the Advisory Panel (17) we are finalising those and when that is finalised I will update you on the Panel members.

We propose to commence Stage 2, subject to any appeal on the Stage 1 decisions, on 6<sup>th</sup> October with a closing date of 6<sup>th</sup> January 2015

Kind regards

Martin Grout

Locum Licensing Officer

Licensing Department

Legal and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

✉ [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Tel: 023 8083 2749

✉ Fax: 023 8083 4061

web: [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)

post: Licensing - Southampton City Council

**Item 2**

**From:** Martyn Kennedy [mailto:Martyn.Kennedy@aspers.co.uk]

**Sent:** 19 September 2014 11:28

**To:** Casino

**Subject:** Large Casino Licence

***Martyn Kennedy***

*Finance Director*

Aspers UK Holdings Limited

[martyn.kennedy@aspers.co.uk](mailto:martyn.kennedy@aspers.co.uk)

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London SW1X 0JD UK

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F +44 020 7235 7336

M +44 (0)7989 580096

[www.aspers.co.uk](http://www.aspers.co.uk)

REGISTERED IN ENGLAND NO. 5261538

Item 3



M. Grout Esq.  
Locum Licensing Officer  
Licensing Department  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council  
PO Box 1767,  
Southampton SO18 9LA

19 September 2014

Dear Sir

**LARGE CASINO COMPETITION**

We are delighted that we have satisfied the Stage 1 criteria and are able to proceed to Stage 2 of the competition.

I am writing to you however to express our concerns about the timing of the Stage 2 process. In order to put together a coherent and sensible proposal for the second stage of the competition, we and indeed our competitors, will require more information about the Royal Pier development.

The type of information we need, will include a more detailed overall Masterplan, a timeframe and phasing for development and most importantly greater precision of exactly where the casino will be located within the overall project and its relationship with the proposed hotel and other retail/leisure uses. Unfortunately we do not believe this information is available at the moment.

These items are required so we can formulate a sensible financial model that, we believe will enable us to offer the best GVA and Financial Contribution for the benefit of the City of Southampton. Without this information we will find it difficult to compile a competitive proposal and therefore regrettably, we will have to consider seriously whether we are prepared to go to the time and expense of entering the Stage 2 process.

Therefore we would ask that you consider deferring the second stage of the competition until such time that the Royal Pier developer is able to provide the information referred to above. This will enable us and our competitors to submit our best proposals that give best value to Southampton.

Yours faithfully

A handwritten signature in black ink that reads 'M. Kennedy'.

Martyn Kennedy  
Finance Director

Approved for Release: 11/05/2014 10:00 AM  
Approved for Release: 11/05/2014 10:00 AM

NOV 2014 - 10:00 AM - 11/05/2014 10:00 AM



**Item 4**

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]  
**Sent:** 22 September 2014 18:09  
**To:** Martyn Kennedy  
**Subject:** FW: Large Casino Licence

Dear Martyn

Thank you for your letter and we will be meeting to discuss this, but I just wondered whether you have any indication or suggestion as to either deferring the commencement of Stage 2 or extending the period that the Stage 2 process remains open.

I haven't at the moment canvassed other applicant's views but will do so over the next couple of days.

Kind regards

Martin

**Item 5**

**From:** Martyn Kennedy [Martyn.Kennedy@aspers.co.uk]

**Sent:** 26 September 2014 09:30

**To:** Grout, Martin

**Subject:** RE: Large Casino Licence

Martin

Apologies for not replying earlier, but I have been out of the office.

I think that given the timeframe we believe the developer will need to get his "ducks in a row", that probably deferring commencement is probably the best option, although in reality extending the deadline has the same effect

Kind regards

Martyn

***Martyn Kennedy***

*Finance Director*

Aspers UK Holdings Limited

[martyn.kennedy@aspers.co.uk](mailto:martyn.kennedy@aspers.co.uk)

1 Hans Street

London SW1X 0JD UK

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[www.aspers.co.uk](http://www.aspers.co.uk)

REGISTERED IN ENGLAND NO. 5261538

Item 6

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref: 2014/02548/70SLCP

Please ask for: Martin Grout

Your ref: JXH/A00001 /0039

Harris Hagan  
6 Snow Hill  
London  
EC1A 2AY

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – ASPERS UNIVERSAL LTD; ROYAL PIER;  
MAYFLOWER PARK**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context. As Asperts had originally requested a delay we assume that this course of action will be acceptable to your client.

On Tuesday 30<sup>th</sup> September Richard Ivory and Martin Grout met with the developers behind the Royal Pier Waterfront development. Also present at the meeting was

Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers.

A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detail plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

As I mentioned in my earlier message, the Council is would be prepared to do this on the following basis:

- The Council had already been approached by your client and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
- The purpose of the competition is to raise benefits for SCC and it has become clear that for that to happen on the Royal Pier site would necessitate some delay.
- There has been a criticism that this is another delay in a process that has taken years to come to fruition. It is precisely for that reason that the Council does not wish to jeopardise all the hard work that has taken place to reach today's position by forging ahead when it would not be able to achieve the maximum benefit from the scheme, should the winning scheme be at Royal Pier.

However, the Council has not yet made a decision on the matter. I would ask that any representation to the proposed course is set out with full particularity. In particular the representation should make it clear whether it is suggested that there is a legal impediment to this suggested course, and if so this should be set out in full so that the Council may take advice upon it immediately.

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

**Item 7**

**NOTE OF MEETING AT SCC CIVIC CENTRE TUESDAY 30<sup>th</sup> SEPTEMBER 2014 CONCERNING STAGE 2 OF THE CASINO LICENCE PROCESS.**

**PRESENT:**

Richard Ivory	SCC Head of Legal and Democratic Services
Martin Grout	SCC Locum Licensing Officer
Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

- Mr Nayak stated that they had been in discussions with all the 4 operators that submitted Stage 1 applications. The clear message that they have had from the majority of them is that they need a significant level of detail to be able to complete the Stage 2 application requirements, in particular there are detailed questions asking about the relationship between the proposed development and casino.
- He pointed out that the current timetable was set c. March 2013 and at a time when it was reasonably anticipated that the CLDA would be signed by no later than Sept 2013 and therefore the April 14 Stage 1 start was entirely sensible. However given the additional time required to deal with, amongst other things, Associated British Ports' points and Lucent Fund matters, the CLDA was not signed until late Feb 2014. The Casino timetable was however inadvertently overlooked and it was not until very recently that operators understood what was required at Stage 2.
- RPW (the Developer) is currently focussed on key obligations under the CLDA to move the Red Funnel ferry terminal to the Trafalgar Dock site. This is, he said, a fairly complex exercise and it is their priority obligation, along with land reclamation. The land reclamation area will house the commercial development including the casino. In addition they are reviewing and developing the indicative mixed use commercial scheme and have started market discussions. The Casino needs to dovetail into the scheme in terms of both masterplan and commercially and will need to therefore get the view of all potential operators on proximity/location.
- The original timetable set allowed for a c. 6 month period between the signing of the CLDA and the start of Stage 1, this time period is what they require currently to be able to work up a scheme with each operator to support their stage 2 submission. They would therefore hope that the council would be mindful to start the Stage 2 process in April 2015.

- Providing the additional time would ensure:
  - Robust and high quality proposals are provided that will better inform the Stage 2 scrutiny process and deal with a wide range of matters to a greater degree than is likely to be the case under the current timetable, (and to ensure that the casino aspect of the development was effectively controlled in terms of any clear effective licensing conditions applied to a detailed comprehensive development )
  - All proposals would be reviewed in advance by the Regeneration Team on the following basis:
    - The quality of the proposed development,
    - Planning considerations and
    - Proposals complied with any CLDA obligations, prior to the scrutiny of the Stage 2 Panel to ensure that each scheme met with licensing obligations.
  - RPW would have a high degree certainty of being able to fund and deliver agreed regeneration outcomes via the final scheme with the operator selected by the Council's Licensing Panel.
  - Each applicant has an equal chance to secure the award of a licence
  - The council securing the greatest benefit to its preferred site from the licensing process

**From:** John Hagan [Hagan@harrishagan.com]

**Sent:** 08 October 2014 12:48

**To:** Grout, Martin

**Subject:** RE: Casino Licence Process Stage 2

**Item 8**

**Follow Up Flag:** Follow up

**Flag Status:** Yellow

Martin,

I write further to our telephone conversation this morning.

As discussed, I confirm that our client, Asperts Universal Limited, is agreeable to the proposed deferment of the commencement of Stage 2.

I look forward to hearing from you in relation to the Notice of Grant at your convenience.

If you wish to discuss further or have any questions, please do not hesitate to telephone me.

Kind regards,

John

**John Hagan**

**Partner**

**Harris Hagan**

**Direct Dial +44 (0)20 7002 7638**

**Fax +44 (0)20 7002 7788**

**E-mail [hagan@harrishagan.com](mailto:hagan@harrishagan.com)**

**Website [www.harrishagan.com](http://www.harrishagan.com)**

**Legal 500 Gaming Law Firm of the Year**

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]

**Sent:** 07 October 2014 08:04

**To:** John Hagan

**Subject:** Casino Licence Process Stage 2

Dear Sirs

Please find attached a letter concerning a possible delay in the commencement of Stage 2 of the process. I would be grateful if I could have your comments as a matter of urgency and preferably no later than Friday 10th October.

Kind regards

Martin Grout

Item 9

LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref:

Please ask for: Martin Grout

Your ref:

Aspers Universal Ltd  
1 Hans Crescent  
London  
SW1X 0JD

FAO Martyn Kennedy

10<sup>th</sup> November 2014

Dear Sir,

**GAMBLING ACT 2005 – ASPERS CASINO; ROYAL PIER; MAYFLOWER  
PARK**

I refer to our earlier correspondence and apologise for the delay in responding. The Council has received a number of representations from the respective applicants and has taken advice on the matter.

We have decided to convene a Licensing Committee meeting to consider the future conduct of the competition. We are in the process of confirming the date and we anticipate this occurring in mid December although I am sure that you will appreciate there are a number of diaries to check for availability. Each applicant will have an opportunity to address the Committee although we will be asking that written submissions are made in advance such that they may be included within the final version of the committee report.

It will be for the Committee to decide on matters such as whether to postpone the commencement of Stage 2.



So that the matter is conducted fairly and transparently, we proposed to include in the report all the recent correspondence with all parties which deals with procedural matters. We do not believe that any commercial confidentiality attaches to it. Moreover, Stage 2 of the competition has not yet begun, and so we can see no basis for cloaking any of the correspondence in confidentiality. Should you take a different view in relation to correspondence with you, please will you let us know as soon as possible, together with the legal basis for any submission that the correspondence should not be included.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. [unclear]', written in a cursive style.

Locum Licensing Officer  
for Head of Legal and Democratic Services

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# Agenda Item 6

Appendix 10

LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council

Licensing Services

Civic Centre

Southampton SO14 7LY

Direct dial: 023 8083 2749

Our ref:

Please address all correspondence to:

**Licensing – Southampton City Council,**

**PO Box 1767, Southampton, SO18 9LA**

E-mail:

[martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Please ask

Martin Grout

for:



Your ref:

Eversheds LLP

Eversheds House

70 Great Bridgewater Street

Manchester

M1 5ES

14<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – GENTING CASINOS UK LTD; ROYAL PIER;  
MAYFLOWER PARK**

Further to my letter of 10<sup>th</sup> November I am pleased to confirm that the Licensing Committee has been arranged for 16<sup>th</sup> December 2014 at 10 am in the Council Chamber at the Civic Centre. You are welcome to attend but we would ask you to submit any written submissions prior to the meeting such that it can be included within the contents of the report. The purpose of the written submission is to allow Members to be aware of the arguments in advance and not to prevent you or your client from addressing the committee on the day.

We believe that the attached correspondence is relevant to the specific issue of the Stage 2 commencement date and accordingly propose to include this within the committee report.

Please let me know if you disagree, with reasons, with our opinion and also if you believe we have omitted any document that you feel should be included.

I would be grateful if you could respond within the next 7 days and detail your position with respect to the issue in hand, namely the proposal to defer the commencement of Stage 2 of the process.

We will then send you a copy of the report prior to the hearing so that each party will be in a position to identify the position of each applicant.

I look forward to hearing from you.  
Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. O'Connell'.

Locum Licensing Officer  
for Head of Legal and Democratic Services

## APPENDIX 1

### GENTING CASINOS UK LTD

DETAILS OF DOCUMENTS CONSIDERED RELEVANT TO THE ISSUE OF THE COMMENCEMENT OF STAGE 2 OF THE LARGE CASINO PROCESS.

		Date	Time
1.	Letter Genting to SCC (with 17/10/2014)	8/3/2013	
2.	e mail Martin Grout to David Roberts	5/9/2014	10.08
3.	Letter SCC to Genting	7/10/2014	
4.	e mail Martin Grout to David Roberts	7/10/2014	8.04
5.	e mail David Roberts to Martin Grout	7/10/2014	10.11
6.	e mail David Roberts to Martin Grout	10/10/2014	10.59
7.	Letter Genting to SCC	17/10/2014	
8.	Letter SCC to Genting	7/11/2014	
9.	Letter SCC to Genting	13/11/2014	

Item 1



## GENTING CASINOS

UNITED KINGDOM

**By email and post**

Licensing Team  
Southampton and Eastleigh Licensing Partnership  
PO Box 1767  
Southampton  
SO18 9LA

[casino@southampton.gov.uk](mailto:casino@southampton.gov.uk)

8th March 2013

Dear Sirs

**Large casino licence**

We write in response to the consultation concerning the draft procedure note (the "**Note**") and evaluation criteria (the "**Criteria**") issued in February 2013 with regard to the proposed grant of a large casino licence by Southampton City Council (the "**Council**") under the relevant provisions of the Gambling Act 2005 (the "**Proposed Licence**").

We believe that it is in the interests of all stakeholders that the application procedure in respect of the Proposed Licence is effected in as efficient, transparent and procedurally fair manner as possible. Furthermore, given our position as one of the UK's largest and most experienced casino operators – and the holder of two existing licences in respect of which the Council is the relevant licensing authority – we believe we are particularly well-placed to comment on the Note and Criteria. Our comments below are made with the twin objectives of ensuring: (i) that the procedure is both fair and, as importantly, seen to be fair; and (ii) that the application procedure results in an outcome that is the most advantageous for the city and residents of Southampton.

In light of the objectives set out above, our comments on Note and the Criteria are as follows:

It is apparent from both the Council's website<sup>1</sup> and the Note (paragraph 7 thereof) that the Council's preferred site in respect of the Proposed Licence is Royal Pier. In addition, paragraph 7.1 of the Note states that "*Southampton City Council intends to enter into a development agreement with partners for the Royal Pier development and a casino element may be part of this with an application for a large casino premises licence forthcoming in relation to the site.*" Furthermore, in an article published recently in the Daily Echo it has been stated that "*council chiefs see [the casino] as key to the success of the whole £450 million development*" and Simon Letts, the Council's cabinet member for resources, is quoted as saying that "*[t]he casino is the cornerstone of the development and 3,000 jobs could come with it all*"<sup>2</sup>.

<sup>1</sup> See <http://www.southampton.gov.uk/business/licensing/lqcsno/>

<sup>2</sup> [http://www.dailyecho.co.uk/news/10266985.Race\\_launched\\_to\\_run\\_city\\_s\\_super\\_casino/](http://www.dailyecho.co.uk/news/10266985.Race_launched_to_run_city_s_super_casino/)

**Genting Casinos UK Limited**

**Registered Office:** 1  
Genting Casinos UK Limited,  
Genting Club Star City,  
Watson Road, Birmingham  
B7 5SA  
Tel: 0121 325 7760  
Fax: 0121 325 7761

**London Office:**  
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31 Curzon Street,  
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Tel: 0207 493 7771  
Fax: 0207 629 3257

**Liverpool Office:**  
Genting Casinos UK Limited,  
151 Dale Street,  
Liverpool  
L2 2JW  
Tel: 0151 237 6000  
Fax: 0151 237 6051

Registered in England No. 01519689

- 2 Given the Council's clear stated preference for the site of the new casino, as supported by recent comments attributed to the Council, it is likely that prospective applicants will consider that the successful application for the Proposed Licence is predicated on locating the casino at Royal Pier. Whether or not that is indeed the case, it is important to appreciate that many (if not all) prospective applicants are likely to proceed on that basis. As such there is a material risk that the whole application process might be flawed which, if challenged, would result in unnecessary delay and additional cost to both applicants and the Council. We are keen to ensure that any time and expense we invest in the application process is not wasted and are sure that the Council wishes to ensure that too. Furthermore, if it is widely expected that the Council will award the Proposed Licence to an application for a siting the casino at Royal Pier, that might reduce the number of applications and viable alternative proposals, thereby depriving the Council from considering a wider range of possibilities which might deliver better long-term benefits to the city of Southampton and its residents.
- 3 In particular, we have concerns as to how the Council's preference for the siting of the proposed casino at Royal Pier can be reconciled with paragraph 3.2.3 of the Code of Practice issued by the Secretary of State for Culture, Media and Sport in relation to Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos (the "**Code of Practice**"), with which, as you will be aware, licensing authorities must comply pursuant to paragraph 6(2) of Schedule 9 of the Gambling Act 2005. This states that any application for a casino licence must be determined by the licensing authority according to criteria that are "*not pre-selected to favour a particular applicant or application*". In light of the comments above, including statements attributed to the Council, there is a material concern that applications that propose to site the casino at Royal Pier are likely to be favoured.
- 4 We note the statement at paragraph 7.1 of the Note that disclosure of the Council's intention to enter into a development agreement for the Royal Pier which may include a casino element "*is set out here so as to ensure that potential applicants are aware of this likelihood and as a consequence, there can be no reason for the procedure to be unfair in any way or perceived to be unfair by any applicant*". However, we are concerned that, notwithstanding the Council's transparency on this point, the award process is very likely to be challengeable on the basis that the procedure as currently proposed is either unfair or perceived to be unfair and/or inconsistent with the Code of Practice. We believe that this poses a material risk to the whole process and that amendments to the Note and Criteria would mitigate this and thereby benefit all stakeholders including the Council.
- 5 Not only is potentially unclear as to whether the Council's approach with respect to its preferred site is compatible with the letter and spirit of the Code of Practice, but, to our knowledge, no other licensing authority has made such a definitive and specific statement of intent as to its preferred site for a small or large casino. By way of example, Great Yarmouth City Council stated that the two areas of Great Yarmouth in which a new casino is likely to bring greatest benefit to the borough are Great Yarmouth Town Centre and Great Yarmouth Sea Front; and both Kingston-Upon-Hull City Council and Middlesbrough Borough Council described their preferred locations only as being within the city centre and town centre respectively. Whilst those procedures identified a preferred location, none of them were linked to a specific development proposal.
- 6 Finally, we note that the Criteria state that in evaluating applications for the Proposed Licence the Council will attach greatest importance to the regenerative impact of the proposals received including whether it will contribute to "*promoting physical regeneration, tourism [and] employment opportunities*". As the Royal Pier is a £450 million development the siting of the proposed casino will not in itself promote the physical regeneration of the site. Regeneration, employment opportunities and the promotion of tourism will be achieved by the redevelopment of Royal Pier whether or not a casino forms part of the development. In this regard, we note that as stated by the Council "*[t]he waterfront will be revitalised, with a new and extended Mayflower Park, speciality shops, offices, leisure venues, apartments and waterside attractions*

*[and] will provide a permanent and improved home for the Southampton Boat Show<sup>3</sup>. As such, if the proposed casino is located in another location it is quite possible that it would contribute more to promoting physical regeneration, tourism and employment opportunities in the city. It therefore appears that any application for the proposed casino to be sited in a location other than Royal Pier may be likely, all other factors being equal, to score higher under the Criteria so far as regenerative impact is concerned.*

We would welcome the opportunity to discuss these comments with you in order to ensure that the procedure for the award of the Proposed Licence is both legally robust and likely to result in the best outcome for the city and residents of Southampton.

We look forward to seeing the final version of the Note and Criteria once published and, in due course, engaging with you about the application we are currently minded to submit for the Proposed Licence.

Yours faithfully



Elizabeth Tarn

General Counsel and Company Secretary

---

<sup>3</sup> <http://www.southampton.gov.uk/s-environment/future/ccplans/vipproj/royal-pier-waterfront.aspx>



## Item 2

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]

**Sent:** 05 September 2014 10:08

**To:** Grout, Martin

**Cc:** Andrew Cotton; 'elaine.whittle@rank.com'; 'joanne.morgan@bonddickinson.com'; 'davidnroberts@eversheds.com'; 'hagan@harrishagan.com'; 'Macgregor, Ewen'; 'Grimes, Becca'; 'Francesca Burnett-Hall'; 'Philip Kolvin QC'; Ivory, Richard

**Subject:** Stage 1 Licensing Committee meeting

Dear All

Please note that the decision notices are now available on <http://www.southampton.gov.uk/business/licensing/lqcsno/default.aspx>. The minutes of the meeting will be available in a few days time but I'm sure the important documents are on the link above.

Thank you to all the applicants who attended yesterday and helped the meeting go smoothly and to finish at a very reasonable hour. I apologise to those who had their representations withdrawn at the 11<sup>th</sup> hour but at least they were withdrawn.

Could I ask you to have a look at the stage 2 documentation which can be found at: <http://www.southampton.gov.uk/business/licensing/lqcsno/lcapps.aspx> and let me have any comments by Friday 19<sup>th</sup> September. If you focus on documents 12 – 20 it would be helpful but please note that document 16 will be updated with the current list of Members so you need not worry about that. As for the Advisory Panel (17) we are finalising those and when that is finalised I will update you on the Panel members.

We propose to commence Stage 2, subject to any appeal on the Stage 1 decisions, on 6<sup>th</sup> October with a closing date of 6<sup>th</sup> January 2015

Kind regards

Martin Grout

Locum Licensing Officer

Licensing Department

Legal and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

✉ [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Tel: 023 8083 2749

✉ Fax: 023 8083 4061

web: [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)

post: Licensing - Southampton City Council

Item 3

LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref: 2014/02553/70SLCP

Please ask for: Martin Grout

Your ref: ROBERDA/ 051949-010517

Eversheds LLP  
Eversheds House  
70 Great Bridgewater Street  
Manchester  
M1 5ES

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – GENTING CASINOS UK LTD; ROYAL PIER;  
MAYFLOWER PARK**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context.

On Tuesday 30<sup>th</sup> September Richard Ivory and Martin Grout met with the developers behind the Royal Pier Waterfront development. Also present at the meeting was

Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers.

A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detailed plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

As I mentioned in my earlier message, the Council would be prepared to do this on the following basis:

- The Council had already been approached by Aspers and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
- The purpose of the competition is to raise benefits for SCC and it has become clear that for that to happen on the Royal Pier site would necessitate some delay.

There has been a criticism that this is another delay in a process that has taken years to come to fruition. It is precisely for that reason that the Council does not wish to jeopardise all the hard work that has taken place to reach today's position by forging ahead when it would not be able to achieve the maximum benefit from the scheme, should the winning scheme be at Royal Pier.

However, the Council has not yet made a decision on the matter. I would ask that any representation to the proposed course is set out with full particularity. In particular the representation should make it clear whether it is suggested that there is a legal impediment to this suggested course, and if so this should be set out in full so that the Council may take advice upon it immediately.

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

Item 4

**From:** Grout, Martin [mailto:Martin.GROUT@southampton.gov.uk]

**Sent:** 07 October 2014 08:04

**To:** Roberts, David - MAN

**Subject:** Casino Licence Process Stage 2

Dear David

Please find attached a letter concerning a possible delay in the commencement of Stage 2 of the process. I would be grateful if I could have your comments as a matter of urgency and preferably no later than Friday 10th October.

Kind regards

Martin Grout

Item 5

**From:** Roberts, David - MAN [DavidNRoberts@eversheds.com]

**Sent:** 07 October 2014 10:11

**To:** Grout, Martin

**Subject:** RE: Casino Licence Process Stage 2

Dear Martin

Many thanks I will review and come back to you when I have taken instructions. In the meantime did you receive my email regarding the possible delay of last Thursday?

Kind regards

David

David Roberts  
Senior Associate  
For Eversheds LLP

Eversheds LLP  
Eversheds House  
70 Great Bridgewater Street  
Manchester  
M1 5ES

Direct Tel: 0845 497 8146  
Mobile: 07775 596 524  
Fax: 0845 497 8888  
[davidnroberts@eversheds.com](mailto:davidnroberts@eversheds.com)

Item 6

Dear Martin

Following our conversation yesterday and in response to your email of the 7<sup>th</sup> October 2014, I am informed by my client that it is considering your correspondence but is not yet in a position to respond in light of this additional information. Genting are appreciative of you request for an urgent response however will not be in a position to respond until early next week.

Kind regards

David Roberts  
Senior Associate  
For Eversheds LLP

Eversheds LLP  
Eversheds House  
70 Great Bridgewater Street  
Manchester  
M1 5ES

Direct Tel: 0845 497 8146  
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[davidnroberts@eversheds.com](mailto:davidnroberts@eversheds.com)

Item 7



# GENTING CASINOS

UNITED KINGDOM

## By email and post

Licensing Team  
Southampton and Eastleigh Licensing Partnership  
PO Box 1767  
Southampton  
SO18 9LA

[casino@southampton.gov.uk](mailto:casino@southampton.gov.uk)

17<sup>th</sup> October 2014

Dear Sirs

## Gambling Act 2005 – Large casino licence

We refer to your letter of 7 October 2014 formally asking for comments on the proposal by Southampton City Council (the "Council") to defer the commencement of Stage 2 of the application process regarding the grant of a large casino licence in Southampton ("Stage 2").

We do not feel able to comment fully on the proposed deferral ahead of receiving some important further information which we consider will be relevant to formulating our formal response. This information is reflected in the questions below.

1. Can you please explain the purpose of the meeting on 30 September 2014 between the Council and representatives for Kymeira, Lucent Group and Terence O'Rourke. Please include in your response an explanation regarding who instigated the meeting and the relationship between those represented at the meeting – both as between themselves and as between the attendees and the developer of the proposed site at Royal Pier, RPW.
2. Will you please provide further details of the representations received from Aspers and Grosvenor whom you state have also requested a deferral of Stage 2.
3. Can you please confirm that the notes of the meeting held on 30 September 2014 are complete and accurate. We raise this because some items appear incomplete; for example, the first bullet point states that Mr Nayak reported that *"they had been in discussions with all 4 operators that submitted Stage 1 applications"*. However, as is apparent from the Council's website, five applicants had proposed to site a casino in the Royal Pier development: Aspers, Genting, Global Gaming Ventures, Grosvenor and Kymeira.
4. We are also concerned that there may be a challenge to the Council's final decision given the apparent bias the Council has in favour of the casino being situated at Royal Pier. We have previously raised our concerns about the Council's bias in favour of Royal Pier (see, for example, our letter of 8 March 2013, a copy of which is attached). Indeed, as we were unable to obtain an assurance that the bias would be rectified, we took a decision to only apply for a licence for a casino at Royal Pier as to have made an additional application at another site would only have resulted in material wasted time and expense, particularly at Stage 2. For that reason, and as foreshadowed in our letter of 8 March 2013, *"it is likely that prospective applicants will consider that the successful application for the Proposed Licence is predicated on locating the casino at Royal Pier [and] that ... prospective applicants are likely to proceed on that basis"* which is

## Genting Casinos UK Limited

**Registered Office:**  
Genting Casinos UK Limited,  
Genting Club Star City,  
Watson Road, Birmingham  
B7 5SA  
Tel: 0121 325 7760  
Fax: 0121 325 7761

**London Office:**  
Genting Casinos UK Limited,  
31 Curzon Street,  
London  
W1J 7TW  
Tel: 020 7493 7771  
Fax: 0207 629 3257

**Liverpool Office:**  
Genting Casinos UK Limited,  
151 Dale Street,  
Liverpool  
L2 2JW  
Tel: 0151 237 6000  
Fax: 0151 237 6051

30728667.3

Registered in England No. 01519689





precisely what we (and perhaps Aspers and Kymeira) did. More recent events have confirmed that our concerns about the Council's bias in favour of Royal Pier were well-founded. For example, when announcing the companies that had been successful at Stage 1, the Council's website noted that "*The new casino is likely to be located at the proposed £450 million Royal Pier development, although two of the seven bids were for different sites*". There is no basis on which SCC can make such a statement before Stage 2 had been completed (let alone before it has even commenced) and doing so confirms our concerns about the Council's bias. The comment about the likely location of the proposed casino goes even further than the comment in the last bullet point of the notes of the recent meeting that Royal Pier is the Council's "preferred site". We are therefore concerned that an unsuccessful applicant may seek a judicial review of the Council's decision if, as we expect, a licence is in due course awarded to an applicant to operate a casino at Royal Pier.

We hope you can appreciate why the comments above explain why we consider why we cannot properly comment on the proposed deferral of Stage 2 until we have received the answers to our queries set out at paragraphs 1, 2 and 3 above. Once we have received answers, we will be in a position to make our formal comments as requested.

In any event, given the issues identified in paragraph 4 above, we consider that – subject to the answers to our queries – the most appropriate course of action would in fact be to restart the whole application process, including re-opening Stage 1 applications. That would be likely to result in mitigating the possibility of the eventual outcome of Stage 2 of the current process being challenged. Although restarting the entire application process may result in further delay before a decision is announced, in the long run it may actually ensure that the people of Southampton can benefit from a new casino earlier than might otherwise be the case if doing so reduces the likelihood of a challenge to the outcome of the current Stage 2 process. As the Council's overriding objective must be the benefit of residents of Southampton, the Council may practically have no other option. For our part, in light of the information that has subsequently confirmed our suspicions, we based our evaluation of the best approach to Stage 1 on the Council's strong stated preference for Royal Pier, thereby effectively excluding other sites from any realistic prospect of success. In addition, if the clear bias of the Council in favour of Royal Pier were removed that might also reduce the likelihood of the Council's final decision being challenged on the basis that the Council had failed to ensure that the interests of residents of Southampton were adequately provided for. In this respect you will recall that we noted in our letter of 8 March 2013 that "*if it is widely expected that the Council will award the Proposed Licence to an application for a siting the casino at Royal Pier, that might reduce the number of applications and viable alternative proposals, thereby depriving the Council from considering a wider range of possibilities which might deliver better long-term benefits to the city of Southampton and its residents*".

Whilst restarting the entire application process may result in further delay before the Council's decision is announced, we do not consider that it will lead to any delay before the casino will actually open. This is especially true if Royal Pier is the site that is eventually chosen. That is because the works required for the Royal Pier site include land reclamation which has yet to begin, and so construction works appear to be several years away at the earliest. Therefore, the delay (if any) caused by restarting the Stage 1 application process will not lead to any detriment to the residents of Southampton as it will have no material (if any) impact on when a casino is likely to open even if Royal Pier is the chosen site.

We look forward to receiving answers to our queries as soon as possible, at which point we will respond promptly to the proposed deferral of Stage 2. Although you will understand that we must reserve all our rights should the Council decide to defer Stage 2 before we have had an opportunity to properly respond once in possession of all relevant facts, the outline of our expected overall position can be derived from this letter and we hope that will be helpful to the Council.

Yours faithfully,

enc.



Item 8

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,**  
**PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref:

Please ask for: Martin Grout

Your ref:

**Genting Casinos UK Ltd**

Genting Club Star City  
Watson Road  
Birmingham  
B7 5SA

4<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – GENTING CASINOS UK LTD; ROYAL PIER;  
MAYFLOWER PARK**

Thank you for your letter of 17<sup>th</sup> October concerning the above matter and I apologise for the delay in responding. This issue has divided applicants and we have sought advice from Leading Counsel as to how best to resolve the situation.

We have decided to convene a Licensing Committee meeting and are in the process of confirming the date and we anticipate this occurring in mid-December although I am sure that you will appreciate there are a number of diaries to check for availability. Each applicant will have an opportunity to address the Committee although we will be asking that written submissions are made such that they may be included within the final version of the committee report.

It will be for the Committee to decide on matters such as the delay and we propose to place all correspondence concerning the issue of the delay within the report. We will be writing to you in the next few days detailing the documents that we believe relevant to Genting and seeking confirmation that you agree with our view and secondly that you consent to them being included in the committee report as a public document. As mentioned above, we would also ask that you submit your written submission such that it can be included in the report.

I will also respond in more detail to your letter of 17<sup>th</sup> October as we are still seeking advice on its contents and anticipate being in a position to do so by next Monday 10<sup>th</sup> November at the latest.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. Cowd'.

Locum Licensing Officer  
for Head of Legal and Democratic Services

Item 9

**HEAD OF LEGAL & DEMOCRATIC SERVICES**

**RICHARD IVORY, Solicitor**

Southampton City Council

Civic Centre

Southampton

SO14 7LY

**FAREHAM**  
BOROUGH COUNCIL



**Southampton and Fareham Legal Services Partnership**

Genting Casinos UK Ltd  
Genting Club Star City  
Watson Road  
Birmingham  
B7 5SA

Direct dial: 023 8083 2794  
Please ask for: Mr R J Ivory  
Our ref: RJI/  
Your ref:  
Date: 7<sup>th</sup> November 2014

Dear Sirs

**GAMBLING ACT 2005 – GENTING CASINOS UK LTD; ROYAL PIER; MAYFLOWER PARK**

I refer to your letter of 17<sup>th</sup> October and my holding response. I am now in a position to answer the queries and comments that you have raised. I would wish to put on record that the Council found your letter helpful and is grateful that you have set out your concerns, both in terms of the immediate issue of the delay and also the longer term and the potential problems you feel may be looming on the horizon.

The first query you raised refers to the purpose of the 30<sup>th</sup> September meeting and how it was instigated and the various relationships involved. The request from Aspers, by a letter, dated 17<sup>th</sup> September, to delay the start of Stage 2 of the competition was the first time that we became aware of a potential issue with the RPW site. This was followed a couple of days later with an e mail from Rank with a similar request. Both of these requests were unsolicited.

The 30<sup>th</sup> September meeting was instigated by Pram Nayak of Lucent with the Council's Economic Development team arranged at a convenient date for the attendees. The details of the attendees have been listed in my earlier letter. Terence O'Rourke are the development advisors to Lucent. The fact that Andrew Cotton who, as you know represents Kymeira Casino Ltd, was present at the meeting was an error on our part in not distinguishing him as an applicant rather than the developer. In hindsight we realise that he should not have been part of the meeting.

Mr Nayak had been at the 4<sup>th</sup> September licensing committee meeting and had introduced himself to the Council officers. He was, he said, new to the development and was bringing himself up to speed and intending to meet with the applicants in the coming days. The sole purpose of the 30<sup>th</sup> September meeting was for the Council to be updated as to the present stage of the development project on the ground.

The notes of the meeting were prepared by Mr Nayak who had offered to prepare them. We believe that they accurately reflect the conversation that took place but have never been described as a verbatim record. As to Mr Nayak's comment about having had a meeting with the four applicants I am unable to comment as to why he stated that or why he made that comment in his note.

You then raise the issue of apparent bias that the Council has in relation to the RPW site.

The decision on the large casino application is to be made by the Licensing Committee. There is no basis for suggesting that the Committee is biased, actually or apparently. The Council has at all stages been transparent regarding the Royal Pier site.

2

Genting Casinos UK Ltd  
7<sup>th</sup> November 2014

This is clearly set out in paragraph 15.12 of the Gambling Act 2005 Statement of Principles and in paragraph 7.1 of the Procedure Note dated March 2013. Its interest in the Royal Pier site is clearly set out in the Register of Interests. Nevertheless, the Evaluation Criteria and Scoring Matrix sets out a neutral scoring system, enabling the merits of any site and any proposal to be fairly evaluated. There is no reason to suggest that the Licensing Committee is unable to exercise its judgment fairly against that background. Therefore, while this is ultimately a matter for the Committee, we make it clear that officers will not be recommending that the procedure be re-started.

I hope that this answers your queries that you have raised and, as indicated in my earlier letter, the specific issue of the delay has been referred to the Committee and all correspondence put before them. Any comments or observations that you wish to make further will be placed within the report subject to your consent.

Yours sincerely



**Richard Ivory**  
**Head of Legal & Democratic Services**

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*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council

Licensing Services

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Your ref:

Bond Dickinson LLP

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**Licensing – Southampton City Council,**

**PO Box 1767, Southampton, SO18 9LA**

E-mail: [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Please ask for: Martin Grout



14<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – GLOBAL GAMING VENTURES APPLICATIONS  
AT: ROYAL PIER; WATERMARK DEVELOPMENT**

Further to my letter of 10<sup>th</sup> November I am pleased to confirm that the Licensing Committee has been arranged for Tuesday 16<sup>th</sup> December 2014 at 10 am in the Council Chamber at the Civic Centre. You are welcome to attend but we would ask you to submit any written submissions prior to the meeting such that it can be included within the contents of the report. The purpose of the written submission is to allow Members to be aware of the arguments in advance and not to prevent you or your client from addressing the committee on the day.

We believe that the attached correspondence is relevant to the specific issue of the Stage 2 commencement date and accordingly propose to include this within the committee report.

Please let me know if you disagree, with reasons, with our opinion and also if you believe we have omitted any document that you feel should be included.

I would be grateful if you could respond within the next 7 days and detail your position with respect to the issue in hand, namely the proposal to defer the commencement of Stage 2 of the process.

We will then send you a copy of the report prior to the hearing so that each party will be in a position to identify the position of each applicant.

I look forward to hearing from you.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. O. O.' with a stylized flourish at the end.

Locum Licensing Officer  
for Head of Legal and Democratic Services

APPENDIX 1

**GLOBAL GAMING VENTURE'S APPLICATIONS**

DETAILS OF DOCUMENTS CONSIDERED RELEVANT TO THE ISSUE OF THE COMMENCEMENT OF STAGE 2 OF THE LARGE CASINO PROCESS.

		Date	Time
1.	e mail Martin Grout to Ewen Macgregor	5/9/2014	10.08
2.	e mail Martin Grout to Ewen Macgregor	30/9/2014	15.40
3.	Letter Ewen Macgregor to Martin Grout	2/10/2014	
4.	e mail Ewen Macgregor to Martin Grout	6/10/2014	7.15
5.	e mail Richard Ivory to Ewen Macgregor	6/10/2014	12.00
6.	e mail Martin Grout to Ewen Macgregor	7/10/2014	08.04
7.	Letter SCC to Bond Dickinson	7/10/2014	
8.	Letter SCC to Bond Dickinson	7/10/2014	
9.	e mail Ewen Macgregor to Martin Grout	7/10/2014	14.28
10.	e mail Ewen Macgregor to Martin Grout	8/10/2014	17.54
11.	Letter Richard Ivory to Ewen Macgregor	9/10/2014	
12.	Letter Ewen Macgregor to Richard Ivory	10/10/2014	
13.	Letter Ewen Macgregor to Chief Executive	29/10/2014	
14.	Letter Martin Grout to Ewen Macgregor	10/11/2014	

**Item 1****From:** Grout, Martin [mailto:Martin.GROUT@southampton.gov.uk]**Sent:** 05 September 2014 10:08**To:** Grout, Martin**Cc:** Andrew Cotton; 'elaine.whittle@rank.com'; 'joanne.morgan@bonddickinson.com'; 'davidnroberts@eversheds.com'; 'hagan@harrishagan.com'; 'Macgregor, Ewen'; 'Grimes, Becca'; 'Francesca Burnett-Hall'; 'Philip Kolvin QC'; Ivory, Richard**Subject:** Stage 1 Licensing Committee meeting

Dear All

Please note that the decision notices are now available on <http://www.southampton.gov.uk/business/licensing/lqcsno/default.aspx>. The minutes of the meeting will be available in a few days time but I'm sure the important documents are on the link above.

Thank you to all the applicants who attended yesterday and helped the meeting go smoothly and to finish at a very reasonable hour. I apologise to those who had their representations withdrawn at the 11<sup>th</sup> hour but at least they were withdrawn.

Could I ask you to have a look at the stage 2 documentation which can be found at: <http://www.southampton.gov.uk/business/licensing/lqcsno/lcapps.aspx> and let me have any comments by Friday 19<sup>th</sup> September. If you focus on documents 12 – 20 it would be helpful but please note that document 16 will be updated with the current list of Members so you need not worry about that. As for the Advisory Panel (17) we are finalising those and when that is finalised I will update you on the Panel members.

We propose to commence Stage 2, subject to any appeal on the Stage 1 decisions, on 6<sup>th</sup> October with a closing date of 6<sup>th</sup> January 2015

Kind regards

Martin Grout

Locum Licensing Officer

Licensing Department

Legal and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

□ [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Tel: 023 8083 2749

□ Fax: 023 8083 4061

web: [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)

post: Licensing - Southampton City Council

**Item 2**

e mail to Ewen Macgregor dated 30<sup>th</sup> September 2014 15:40

Dear Ewen and Joanne

Please find attached the draft notices that will be sent to you once they are formally signed. I apologise for the delay in getting them to you and I would be grateful if you could check that they match your expectations as soon as possible. I will then ask the Licensing Manager to sign them and send the copies out to the relevant people and bodies.

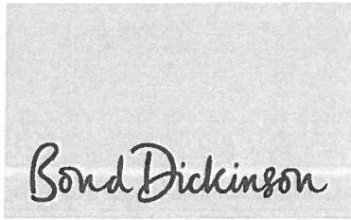
Two of the applicants have enquired about the Council postponing the commencement of Stage 2 and I should say that the Council are minded to agree to this. We will be in a position to confirm this hopefully by the end of the week and would be looking to commence Stage 2 in April 2015. We have been in discussion with the developer and understand the reasons why a delay should be implemented. Could you confirm whether GGV would be in agreement with this approach and if there are any objections to this, please let me know what they are and how they affect the process.

Kind regards

Martin

Martin Grout  
Locum Licensing Officer  
Licensing Department  
Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council

Item 3



www.bonddickinson.com

URGENT – BY EMAIL AND POST

Martin.Grout@southampton.gov.uk

Martin Grout Esq.  
Locum Licensing Officer  
Licensing Department  
Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council  
Civic Centre  
Southampton SO14 7LY

2<sup>nd</sup> October 2014

Dear Sir

**Southampton City Council**

**Large Casino Licence Competition – Possible Delay**

**Gambling Act 2005**

We refer to your email of 30<sup>th</sup> September.

We have now been able to take instructions from our clients, GGV (Southampton) Limited and GGV (RP) Limited. For convenience, we are submitting a single letter on behalf of both clients, although you will readily recognise that there are two separate applications.

Our clients are extremely concerned to hear that the Council is considering permitting a further delay to the casino competition. We are instructed to make it absolutely clear to you that our clients do not agree to this and that they reserve all rights in relation to this matter.

We remind you that the licence issue process in Southampton has been slower than in any of the other 'Large' category licences and has already taken several years. We can see no justifiable reason for a further delay particularly as we are now part way through the competition process.

Our clients would also be most concerned if it transpired that any such delay were designed to benefit one project over another. In this context it is surprising that your email makes reference to your being in discussion with 'the developer'. Could you please inform us as to which developer you are referring to?

The legal process for running the casino competition and issuing the licence under the Gambling Act 2005 is not a tactical tool to be utilised to favour one applicant or project over another. You will be

aware that the licensing authority must ensure that each application is determined by the licensing authority according to criteria which are not preselected to favour a particular application or applications (**DCMS Code of Practice section 3 para 3.2.3**)

It follows that the Council must not make a decision to delay based on the submissions of certain applicants without giving the other applicants due opportunity to respond and have their views heard.

To that end, in order to respond properly, we require to know urgently:

1. Which applicants have asked for the delay?
2. What reasons the applicants have given for asking for such a delay?
3. What is the basis for selecting a delay period of six months?
4. What reasons Southampton Council has for agreeing to a delay?

We would also like copies of any correspondence with and notes of any meetings or other discussions with the applicants concerned or with 'the developer' to which your email refers.

We are instructed to emphasise that our clients consider the Council's suggestion of a delay to be very troubling.

Accordingly, our clients wish to make it clear that they fully reserve their position with regard to any possible courses of action that may be open to them.

We look forward to hearing from you as a matter of urgency.

Yours faithfully

A handwritten signature in black ink that reads "Bond Dickinson LLP". The signature is written in a cursive, slightly stylized font.

Bond Dickinson

**Item 4**

-----Original Message-----

From: Macgregor, Ewen [mailto:ewen.macgregor@bonddickinson.com]

Sent: 06 October 2014 07:15

To: Grout, Martin

Cc: Casino

Subject: Southampton Large Casino Process - Gambling Act 2005

Importance: High

Dear Sir

We refer to our letter of the 2nd October to which we have so far received no response.

We wish to inform you that our clients are continuing to proceed on the basis that the Stage 2 part of the competition process has now commenced.

My client expects and trusts that it will be fairly, properly and expeditiously conducted in accordance with the timetable and methodology previously announced by the Council.

Yours faithfully,

Bond Dickinson



**Item 5**

From: Ivory, Richard on behalf of Casino

Sent: 06 October 2014 12:00

To: Macgregor, Ewen

Cc: Casino; Grout, Martin

Subject: RE: Southampton Large Casino Process - Gambling Act 2005

Follow Up Flag: Follow up

Flag Status: Yellow

Dear Mr MacGregor,

Thank you for your letter received last Thursday.

As you may anticipate we have been in urgent conversation with Leading Counsel regarding this issue and will be writing to all Provisional Statement holders later today.

Yours sincerely

Richard Ivory, Solicitor

Head of Legal and Democratic Services

Southampton and Fareham Legal Services Partnership

Southampton City Council

Tel: 02380 832794

Fax: 02380 832308

Email: [richard.ivory@southampton.gov.uk](mailto:richard.ivory@southampton.gov.uk)

**Item 6**

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]

**Sent:** 07 October 2014 08:04

**To:** Morgan, Joanne

**Cc:** Macgregor, Ewen

**Subject:** Casino Licence Process Stage 2

Dear Sirs

Please find attached two letters concerning a possible delay in the commencement of Stage 2 of the process. I would be grateful if I could have your comments as a matter of urgency and preferably no later than Friday 10th October. The attachment relates to both letters.

Kind regards

Martin Grout

Item 7

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Our ref: 2014/02561/70SLCP

Please ask for: Martin Grout

Your ref: JMM1/JMM1 /380274.2

Bond Dickinson LLP  
3 Temple Quay  
Temple Back East  
Bristol  
BS1 6DZ

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – GLOBAL GAMING VENTURES (RP) LTD; ROYAL PIER; MAYFLOWER PARK**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context.

On Tuesday 30<sup>th</sup> September Richard Ivory and Martin Grout met with the developers behind the Royal Pier Waterfront development. Also present at the meeting was

Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers.

A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detail plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

As I mentioned in my earlier message, the Council would be prepared to do this on the following basis:

- The Council had already been approached by Aspers and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
- The purpose of the competition is to raise benefits for SCC and it has become clear that for that to happen on the Royal Pier site would necessitate some delay.

There has been a criticism that this is another delay in a process that has taken years to come to fruition. It is precisely for that reason that the Council does not wish to jeopardise all the hard work that has taken place to reach today's position by forging ahead when it would not be able to achieve the maximum benefit from the scheme, should the winning scheme be at Royal Pier.

However, the Council has not yet made a decision on the matter. I would ask that any representation to the proposed course is set out with full particularity. In particular the representation should make it clear whether it is suggested that there is a legal impediment to this suggested course, and if so this should be set out in full so that the Council may take advice upon it immediately.

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

Item 8

LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref: 2014/02566/70SLCP

Please ask for: Martin Grout

Your ref: JMM1/JMM1/380274.1

Bond Dickinson LLP  
3 Temple Quay  
Temple Back East  
Bristol  
BS1 6DZ

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – GLOBAL GAMING VENTURES (SOUTHAMPTON) LTD; WATERMARK DEVELOPMENT**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context.

On Tuesday 30<sup>th</sup> September Richard Ivory and Martin Grout met with the developers behind the Royal Pier Waterfront development. Also present at the meeting was

Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers.

A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detail plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

As I mentioned in my earlier message, the Council would be prepared to do this on the following basis:

- The Council had already been approached by Aspers and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
- The purpose of the competition is to raise benefits for SCC and it has become clear that for that to happen on the Royal Pier site would necessitate some delay.

There has been a criticism that this is another delay in a process that has taken years to come to fruition. It is precisely for that reason that the Council does not wish to jeopardise all the hard work that has taken place to reach today's position by forging ahead when it would not be able to achieve the maximum benefit from the scheme, should the winning scheme be at Royal Pier.

However, the Council has not yet made a decision on the matter. I would ask that any representation to the proposed course is set out with full particularity. In particular the representation should make it clear whether it is suggested that there is a legal impediment to this suggested course, and if so this should be set out in full so that the Council may take advice upon it immediately.

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

**Item 9**

-----Original Message-----

From: Macgregor, Ewen [mailto:ewen.macgregor@bonddickinson.com]

Sent: 07 October 2014 14:28

To: Grout, Martin

Subject: Southampton CC Large Casino Licence Process Gambling Act 2005

Importance: High

Dear Sir

We acknowledge receipt of your letters and enclosure. Our clients continue have a number of serious concerns.

To enable us to respond substantively can you please confirm what procedure the authority proposes to adopt in deciding whether or not to interrupt and delay the casino competition process, the Stage 2 part of which has now commenced.

Until such time as a decision to delay the process has been properly made by a competent body of the authority, please be advised that our clients will continue to proceed on the basis that the Stage 2 part of the competition process is underway in accordance with the previously announced timetable.

We look forward to hearing from you as a matter of urgency.

Yours faithfully,

Bond Dickinson

**Item 10**

**From:** Macgregor, Ewen [ewen.macgregor@bonddickinson.com]

**Sent:** 08 October 2014 17:54

**To:** Grout, Martin; Morgan, Joanne

**Subject:** Casino Licence Process Stage 2 [BD-4A.FID26072502]

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Yellow

Good evening

We refer to your letters of the 7<sup>th</sup> October in which the council indicated that they expected a substantive response by Friday 10<sup>th</sup> October.

We have still not received a reply to our email of the 7<sup>th</sup> October. Can we please have an immediate response so as to avoid any further potential delay?

**Ewen Macgregor**

Partner

for and on behalf of Bond Dickinson LLP

**Direct:** +44 (0) 845 415 6647

**Mobile:** +44 (0) 7718 099 664

**Office:** +44 (0) 845 415 0000

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Item 11

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2794

E-mail: richard.ivory@southampton.gov.uk

Our ref: 2014/02561/70SLCP

Please ask for: Richard Ivory

Your ref: JMM1/JMM1 /380274.2

Bond Dickinson LLP  
3 Temple Quay  
Temple Back East  
Bristol  
BS1 6DZ

By e mail only

9<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – GLOBAL GAMING VENTURES (RP) LTD; ROYAL PIER; MAYFLOWER PARK and GLOBAL GAMING VENTURES (SOUTHAMPTON) LTD**

I refer to the Council's letter of 7<sup>th</sup> October whereby we have laid out the reasoning behind the possibility of deferring the commencement of Stage 2 of the Large Casino Licence process. In your e mail of 7<sup>th</sup> October you have raised the following issues and asked

To enable us to respond substantively can you please confirm what procedure the authority proposes to adopt in deciding whether or not to interrupt and delay the casino competition process, the Stage 2 part of which has now commenced.

Until such time as a decision to delay the process has been properly made by a competent body of the authority, please be advised that our clients will continue to proceed on the basis that the Stage 2 part of the competition process is underway in accordance with the previously announced timetable.

I am somewhat surprised at the stance that is being taken. I believe that the Council's previous letter gave a full and satisfactory explanation of the

position and while it is not an ideal position to be in, the Council has no reasonable alternative than to take this course of action.

The Council anticipated that that the whole process would be one where each applicant could feel comfortable working with the Council to develop a successful Stage 2 competition. The prospect or threat of a challenge of any nature at this stage appears to be unfortunate and totally unwarranted.

The decision to defer the commencement of Stage 2 is within my delegated powers and the specific extract from the Council's Constitution is as follows:

## 1.2 DIRECTORS AND HEADS OF SERVICE

1.2.1 If a function, power or responsibility has not been specifically reserved to the Council, a Committee or the Executive, the Head of Service within whose remit the matter falls is authorised to act.

1.2.2 The Council, its Committees and the Executive will make decisions on matters of significant policy. Heads of Service are given express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources within agreed budgets in the case of financial resources, as necessary and appropriate.

1.2.3 Heads of Service are empowered to take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution (eg Financial Procedure Rules).

This clearly devolves the power to make the decision to defer Stage 2 to myself as Head of Legal and Democratic Services as the Licensing function is within my remit. It does however have the backing of the Leader of the Council.

I would reiterate the comments in our letter of 7<sup>th</sup> October as to the reasons behind such a decision. The application pack makes it very clear that the timetable has at all times been indicative only and in fact, states clearly that when the Council is ready to commence Stage 2, it will invite applicants from Stage 1 to participate in Stage 2 of the process. It is worth highlighting that no such invite has been made yet and for the avoidance of doubt, Stage 2 of the process has not yet commenced.

In addition the Notice of Grant of an Application for a Provisional Statements have yet to be sent to applicants and the appeal period against decisions is yet to expire. Lastly, as part of the Application Pack the Council is to consult on the composition of the Advisory Panel. Both of these actions will follow shortly. On these two procedural grounds alone it is not feasible to commence Stage 2.

A formal decision on timing will be made by the end of the week and communicated to all interested parties.

Yours faithfully,

Head of Legal and Democratic Services



10 October 2014

Richard Ivory, Solicitor  
Head of Legal and Democratic Services  
Southampton and Fareham Legal Services Partnership  
Southampton City Council  
Civic Centre  
Southampton  
SO14 7LT

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Our ref:  
EDM1/NAO1/380274.1  
Your ref:

By Email Only: [richard.ivory@southampton.gov.uk](mailto:richard.ivory@southampton.gov.uk)

Dear Sir

**Southampton City Council – Large Casino Licence Competition - Gambling Act 2005  
Possible Delay**

We acknowledge receipt of your letter of the 9<sup>th</sup> October.

Our clients continue to have the most serious concerns about the way that this matter is being handled.

We wish to make the following points:

1. We are disappointed that you are unable to see why it is quite unsatisfactory for an officer, who is a longstanding publicly declared supporter of a particular scheme, to meet privately, during the competition, with the developer of that scheme to discuss how best to improve the prospects for such scheme in the competition. Furthermore, the proposal that this officer would then take an important decision in accordance with the chosen developer/applicant's request with the principal purpose and effect being to benefit the said developer and its scheme to the disadvantage of other schemes and applicants is unacceptable for a number of reasons.
2. Our clients' view is that private meetings by Council officers involved in the competition process with individual applicants during the competition process are undesirable anyway and, as a minimum, may give rise to an appearance of impropriety regardless of the outcome.
3. In this context we would like to know when and why the note of the meeting with Lucent on 30<sup>th</sup> September was prepared and who contributed to the drafting? Please provide to us any manuscript notes taken during this meeting.
4. The question as to whether an officer has the authority to take a decision under Council delegation policies (and we reserve our position on this) is separate from whether it is proper (and indeed lawful) for him or her to take such a decision. As you are aware the Code of Practice governing the Gambling Act 2005 process makes it clear that the licensing authority "*must...ensure that each application is determined according to criteria which are (inter alia) not preselected to favour a particular applicant or application*". Furthermore, the principles go on to state that "*a licensing authority must ensure that any pre-existing contract, arrangement or other relationship they have with any person does not affect the procedure so as to make it unfair (or appear unfair)*".(Our emphasis.)

Bond Dickinson LLP is a limited liability partnership registered in England and Wales under number OC317661. VAT registration number is GB123393627. Registered office: St Ann's Wharf, 112 Quayside, Newcastle upon Tyne, NE1 3DX, where a list of members' names is open to inspection. We use the term partner to refer to a member of the LLP, or an employee or consultant who is of equivalent standing. Bond Dickinson LLP is authorised and regulated by the Solicitors Regulation Authority.

4A\_29540104\_1

5. You state in your letter of 9<sup>th</sup> October that the Council had 'no reasonable alternative than to take this course of action'. Our clients submit that this is incorrect. The Council was and is perfectly free to continue the competition in accordance with the announced timetable. Please explain why this is not an entirely fair and reasonable alternative.
6. We would like you to confirm that the sole objective of delaying the competition would be to permit the Royal Pier schemes to become stronger than the other schemes and therefore more likely to win the competition and/or to allow the developer more time to manage a competitive process amongst the Royal Pier applicants and thereby obtain a better economic deal for itself.

In the circumstances we request that the determination of the proper start date for Stage 2 is referred to the licensing sub – committee and that they be respectfully requested to convene as a matter of urgency for this purpose.

We look forward to hearing from you.

Yours faithfully



**Bond Dickinson LLP**

**Copy to**

1 [Casino@southampton.gov.uk](mailto:Casino@southampton.gov.uk)



[www.bonddickinson.com](http://www.bonddickinson.com)

29 October 2014

Bond Dickinson LLP

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Temple Back East  
Bristol BS1 6DZ

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DX 200561 Bristol Temple Meads

[joanne.morgan@bonddickinson.com](mailto:joanne.morgan@bonddickinson.com)  
Direct: +44 (0)845 415 6775

Our ref:  
EDM1/JMM1/380274.1  
Your ref:

Ms Dawn Baxendale  
Chief Executive  
Southampton City Council  
Civic Centre  
Southampton, SO14 7LY

By email only: - [dawn.baxendale@southampton.gov.uk](mailto:dawn.baxendale@southampton.gov.uk)

Dear Madam

#### **SOUTHAMPTON CITY COUNCIL – LARGE CASINO LICENCE UNDER THE GAMBLING ACT 2005**

We are instructed by Global Gaming Ventures (Southampton) Limited and Global Gaming Ventures (RP) Limited who are applicants in the competition for the Large Casino licence in Southampton.

Our clients' applications at stage 1 of the competition, which were considered by the Council's Licensing Committee on the 4<sup>th</sup> September 2014, were granted. These applications, along with all of the other stage 1 applications, proceeded to stage 2 of the process.

Following completion of stage 1 the Council re-confirmed its intention to commence stage 2 of the process on the 6<sup>th</sup> October 2014, as set out in the Council's own procedure note in relation to the "Competition for grant of large casino premises licence" dated March 2013.

On the 30<sup>th</sup> September we were notified that Richard Ivory and two other representatives of the Council had been in discussions with the developer of one of the sites involved in the competition and two of the other applicants. These parties had seemingly asked for a delay to the process whilst they addressed some queries relating to their projects. The Council sought confirmation from our clients that they were content to postpone the commencement of stage 2 of the casino process to at least April 2015.

On behalf of both of our clients, we responded to the Council on the 2<sup>nd</sup> October expressing our concern with this suggestion. Copies of these letters are attached.

Responses to this letter were received on the 7<sup>th</sup> October. Copies of these letters are attached.

On the same day we emailed the Council indicating that "our clients [continued] to have a number of serious concerns" about the proposal to delay the start of the stage 2 process.

On the 9<sup>th</sup> October, Mr Ivory responded to this email advising that "a formal decision on timing will be made by the end of the week [the following day, the 10<sup>th</sup> October] and communicated to all interested parties". A copy of this letter is enclosed.

We responded to Mr Ivory on the 10<sup>th</sup> October. A copy of this letter is enclosed.

Despite being advised by Mr Ivory on the 9<sup>th</sup> October that a decision on timing would be made by the 10<sup>th</sup> October, and then when no decision had been made by this date, on the 16<sup>th</sup> October that he hoped to confirm the position at some point in the week commencing 20<sup>th</sup> October, to date no such decision has been notified to us.

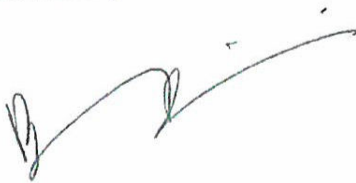
Our clients have incurred, and continue to incur, significant costs in preparing their Stage 2 applications in accordance with the Council's announced timetable and in seeking to establish the reasons for the proposed delay in starting stage 2. The lapse of time whilst no decision is taken is disadvantaging our clients' legitimate commercial interests in a fair process. The delay and on-going uncertainty caused by the failure of the Council to make a decision on the timing of the stage 2 process is wholly unacceptable.

We would also consider it a very serious matter if Council's agrees to a delay wholly or mainly in order to give an advantage to one scheme or applicant or group of applicants. The casino competition must, of course, be carried out on a fair basis in accordance with the relevant DCMS Code of Practice.

We would be grateful if you could please kindly investigate this matter urgently and advise us, with detailed reasons, as to the Council's present position in this matter.

We look forward to hearing from you.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Richard Ivory', written over a horizontal line.

Bond Dickinson LLP

cc

Richard Ivory, SCC  
Casino Southampton

Item 14

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all  
correspondence to: **Licensing –  
Southampton City Council,  
PO Box 1767, Southampton,  
SO18 9LA**



Direct dial: 023 8083 2749

E-mail: richard.ivory@southampton.gov.uk

Our ref:

Please ask for: Richard Ivory

Your ref: JMM1/JMM1 /380274.2

Bond Dickinson LLP  
3 Temple Quay  
Temple Back East  
Bristol  
BS1 6DZ

10<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – GGV (WM) and GGV (RP) applications**

Thank you for your letters concerning the above matter and the proposal to delay Stage 2 of the process. I apologise for the delay in responding. The Council has received a number of representations from the respective applicants and has taken advice on the matter.

We have decided to convene a Licensing Committee meeting to consider the future conduct of the competition. We are in the process of confirming the date and we anticipate this occurring in mid December although I am sure that you will appreciate there are a number of diaries to check for availability. Each applicant will have an opportunity to address the Committee although we will be asking that written submissions are made in advance such that they may be included within the final version of the committee report.

It will be for the Committee to decide on matters such as whether to postpone the commencement of Stage 2.

So that the matter is conducted fairly and transparently, we proposed to include in the report all the recent correspondence with all parties which deals with procedural matters. We do not believe that any commercial confidentiality attaches to it. Moreover, Stage 2 of the competition has not yet begun, and so we can see no basis for cloaking any of the correspondence in confidentiality. Should you take a different view in relation to correspondence with you, please will you let us know as soon as possible, together with the legal basis for any submission that the correspondence should not be included.



Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. C. ...' with a stylized flourish at the end.

For Head of Legal and Democratic Services

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LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,**  
**PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref:

Please ask Martin Grout  
for:

Your ref:

Grosvenor Casinos Ltd  
Statesman House  
Stafferton Way  
Maidenhead  
SL6 1AY

14<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 GROSVENOR CASINOS LTD; ROYAL PIER;  
MAYFLOWER PARK AND LEISUREWORLD APPLICATIONS**

Further to my letter of 10<sup>th</sup> November I am pleased to confirm that the Licensing Committee has been arranged for Tuesday 16<sup>th</sup> December 2014 at 10 am in the Council Chamber at the Civic Centre. You are welcome to attend but we would ask you to submit any written submissions prior to the meeting such that it can be included within the contents of the report. The purpose of the written submission is to allow Members to be aware of the arguments in advance and not to prevent you or your client from addressing the committee on the day.

We believe that the attached correspondence is relevant to the specific issue of the Stage 2 commencement date and accordingly propose to include this within the committee report.

Please let me know if you disagree, with reasons, with our opinion and also if you believe we have omitted any document that you feel should be included.

I would be grateful if you could respond within the next 7 days and detail your position with respect to the issue in hand, namely the proposal to defer the commencement of Stage 2 of the process.

We will then send you a copy of the report prior to the hearing so that each party will be in a position to identify the position of each applicant.

I look forward to hearing from you.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'M. Grout'.

Locum Licensing Officer  
for Head of Legal and Democratic Services

APPENDIX 1

**GROSVENOR CASINOS LTD**

DETAILS OF DOCUMENTS CONSIDERED RELEVANT TO THE ISSUE OF THE COMMENCEMENT OF STAGE 2 OF THE LARGE CASINO PROCESS.

		Date	Time
1.	e mail Martin Grout to Simon Bishop	5/9/2014	10.08
2.	e mail Simon Bishop to Martin Grout	24/9/2014	16.00
3.	e mail Martin Grout to Simon Bishop	30/9/2014	15.40
4.	e mail Martin Grout to Simon Bishop	7/10/2014	08.04
5.	Notes of meeting 30 <sup>th</sup> September 2014	7/10/2014	
6.	Letter to Grosvenor Casinos Ltd re RPW	7/10/2014	
7.	Letter to Grosvenor Casinos Ltd re Leisureworld	7/10/2014	
8.	Letter to Grosvenor Casinos Ltd	10/11/2014	

**Item1****From:** Grout, Martin [<mailto:Martin.Grout@southampton.gov.uk>]**Sent:** 05 September 2014 10:08**To:** Grout, Martin**Cc:** Andrew Cotton; 'elaine.whittle@rank.com'; 'joanne.morgan@bonddickinson.com'; 'davidnroberts@eversheds.com'; 'hagan@harrishagan.com'; 'Macgregor, Ewen'; 'Grimes, Becca'; 'Francesca Burnett-Hall'; 'Philip Kolvin QC'; Ivory, Richard**Subject:** Stage 1 Licensing Committee meeting

Dear All

Please note that the decision notices are now available on <http://www.southampton.gov.uk/business/licensing/lgcsno/default.aspx>. The minutes of the meeting will be available in a few days time but I'm sure the important documents are on the link above.

Thank you to all the applicants who attended yesterday and helped the meeting go smoothly and to finish at a very reasonable hour. I apologise to those who had their representations withdrawn at the 11<sup>th</sup> hour but at least they were withdrawn.

Could I ask you to have a look at the stage 2 documentation which can be found at: <http://www.southampton.gov.uk/business/licensing/lgcsno/lcapps.aspx> and let me have any comments by Friday 19<sup>th</sup> September. If you focus on documents 12 – 20 it would be helpful but please note that document 16 will be updated with the current list of Members so you need not worry about that. As for the Advisory Panel (17) we are finalising those and when that is finalised I will update you on the Panel members.

We propose to commence Stage 2, subject to any appeal on the Stage 1 decisions, on 6<sup>th</sup> October with a closing date of 6<sup>th</sup> January 2015

Kind regards

Martin Grout

Locum Licensing Officer

Licensing Department

Legal and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

✉ [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Tel: 023 8083 2749

☎ Fax: 023 8083 4061

web: [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)post: Licensing - Southampton City Council  
Civic Centre, Southampton, SO14 7LY

**Item 2**

From: Simon Bishop [simon.bishop@rank.com]  
Sent: 24 September 2014 16:00  
To: Grout, Martin  
Subject: Stage 2 Timetable

Dear Martin,

Following a meeting with the developer of Royal Pier today it is clear that the level of detail about the scheme required for a Stage 2 submission is not available at this time.

As a result I write to formally ask for a delay to the commencement of Stage 2 proceedings to allow for the detail of the scheme to be further advanced. This will I believe be of benefit to all parties involved and produce a superior development.

I understand you have a meeting arranged for early next week with the developer and no doubt they will be making a similar request. In terms of timing we would request a minimum extension to February 2015.

Yours sincerely

Simon

Simon Bishop  
Director of Acquisitions  
The Rank Group Plc  
Mobile 07860 910301

### Item 3

E mail from Martin Grout to Simon Bishop at Grosvenor Casinos Ltd  
30<sup>th</sup> September 2014 15:40

Dear Simon and Elaine

Please find attached the draft notices that will be sent to you once they are formally signed. I apologise for the delay in getting these to you and I would be grateful if you could check that they match your expectations as soon as possible. I will then ask the Licensing Manager to sign them and send the copies out to the relevant people and bodies.

You have enquired about the Council postponing the commencement of Stage 2 and I should say that the Council are minded to agree to this. We will be in a position to confirm this hopefully by the end of the week and would be looking to commence Stage 2 in April 2015. We have been in discussion with the developer and understand the reasons why a delay should be implemented. I assume that you would have no objection to this proposal but please let me know if you do.

Kind regards

Martin

Martin Grout  
Locum Licensing Officer  
Licensing Department  
Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council

✉ [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Tel: 023 8083 2749

☎ Fax: 023 8083 4061

web: [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)

post: Licensing - Southampton City Council  
Civic Centre, Southampton, SO14 7LY

*Please Note: - This email is confidential but may have to be disclosed under the Freedom of Information Act 2000, the Data Protection Act 1998 or the Environmental Information Regulations 2004. If you are not the person or organisation it was meant for, apologies, please ignore it, delete it and notify us. SCC does not make legally binding agreements or accept formal notices/proceedings by email. E-mails may be monitored.*

***This e-mail (and its attachments) is intended only for the use of the person(s) to whom it is addressed and may contain information which is privileged and/or confidential. If it has come to you in error you must take no action based on it, nor must you copy or show it to anyone***

 *Think of the environment...please don't print this e-mail unless you really need to*



**Item 4**

Tue 07/10/2014 08:04

Grout, Martin [Martin.Grout@southampton.gov.uk](mailto:Martin.Grout@southampton.gov.uk)

Casino Licence Process Stage 2

To: 'simon.bishop@rank.com'

Dear Simon

Please find attached two letters concerning a possible delay in the commencement of Stage 2 of the process. I would be grateful if I could have your comments as a matter of urgency and preferably no later than Friday 10th October.

Kind regards

Martin Grout

## Item 5

### NOTE OF MEETING AT SCC CIVIC CENTRE TUESDAY 30<sup>th</sup> SEPTEMBER 2014 CONCERNING STAGE 2 OF THE CASINO LICENCE PROCESS.

#### PRESENT:

Richard Ivory	SCC Head of Legal and Democratic Services
Martin Grout	SCC Locum Licensing Officer
Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

- Mr Nayak stated that they had been in discussions with all the 4 operators that submitted Stage 1 applications. The clear message that they have had from the majority of them is that they need a significant level of detail to be able to complete the Stage 2 application requirements, in particular there are detailed questions asking about the relationship between the proposed development and casino.
- He pointed out that the current timetable was set c. March 2013 and at a time when it was reasonably anticipated that the CLDA would be signed by no later than Sept 2013 and therefore the April 14 Stage 1 start was entirely sensible. However given the additional time required to deal with, amongst other things, Associated British Ports' points and Lucent Fund matters, the CLDA was not signed until late Feb 2014. The Casino timetable was however inadvertently overlooked and it was not until very recently that operators understood what was required at Stage 2.
- RPW (the Developer) is currently focussed on key obligations under the CLDA to move the Red Funnel ferry terminal to the Trafalgar Dock site. This is, he said, a fairly complex exercise and it is their priority obligation, along with land reclamation. The land reclamation area will house the commercial development including the casino. In addition they are reviewing and developing the indicative mixed use commercial scheme and have started market discussions. The Casino needs to dovetail into the scheme in terms of both masterplan and commercially and will need to therefore get the view of all potential operators on proximity/location.
- The original timetable set allowed for a c. 6 month period between the signing of the CLDA and the start of Stage 1, this time period is what they require currently to be able to work up a scheme with each operator to support their stage 2 submission. They would therefore hope that the council would be mindful to start the Stage 2 process in April 2015.

- Providing the additional time would ensure:
  - Robust and high quality proposals are provided that will better inform the Stage 2 scrutiny process and deal with a wide range of matters to a greater degree than is likely to be the case under the current timetable, (and to ensure that the casino aspect of the development was effectively controlled in terms of any clear effective licensing conditions applied to a detailed comprehensive development )
  - All proposals would be reviewed in advance by the Regeneration Team on the following basis:
    - The quality of the proposed development,
    - Planning considerations and
    - Proposals complied with any CLDA obligations, prior to the scrutiny of the Stage 2 Panel to ensure that each scheme met with licensing obligations.
  - RPW would have a high degree certainty of being able to fund and deliver agreed regeneration outcomes via the final scheme with the operator selected by the Council's Licensing Panel.
  - Each applicant has an equal chance to secure the award of a licence
  - The council securing the greatest benefit to its preferred site from the licensing process

**Item 6**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,**  
**PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref: 2014/02562/70SLCP

Please ask for: Martin Grout

Your ref:

Grosvenor Casinos Ltd  
Statesman House  
Stafferton Way  
Maidenhead  
SL6 1AY

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – ROYAL PIER; MAYFLOWER PARK**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context. As Grosvenor had originally requested a delay we would hope that this course of action will be acceptable to yourselves.

On Tuesday 30<sup>th</sup> September Richard Ivory and Martin Grout met with the developers behind the Royal Pier Waterfront development. Also present at the meeting was

Emma Meredith  
Andrew Cotton  
Pram Nayak  
Ann Bartaby  
Julia Jardine

SCC Economic Development  
Solicitor for Kymeira  
Lucent Group  
Terence O'Rourke  
Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers. A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detail plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

As I mentioned in my earlier message, the Council would be prepared to do this on the following basis:

- The Council had already been approached by Aspers and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
- The purpose of the competition is to raise benefits for SCC and it has become clear that for that to happen on the Royal Pier site would necessitate some delay.

There has been a criticism that this is another delay in a process that has taken years to come to fruition. It is precisely for that reason that the Council does not wish to jeopardise all the hard work that has taken place to reach today's position by forging ahead when it would not be able to achieve the maximum benefit from the scheme, should the winning scheme be at Royal Pier.

However, the Council has not yet made a decision on the matter. I would ask that any representation to the proposed course is set out with full particularity. In particular the representation should make it clear whether it is suggested that there is a legal impediment to this suggested course, and if so this should be set out in full so that the Council may take advice upon it immediately.

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

**Item 7**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council

Licensing Services

Civic Centre

Southampton SO14 7LY

Direct dial: 023 8083 2749

Our ref: 2014/02564/70SLCP

Your ref:

Please address all correspondence to:

**Licensing – Southampton City Council,**

**PO Box 1767, Southampton, SO18 9LA**

E-mail:

[martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Please ask for: Martin Grout



Grosvenor Casinos Ltd  
Statesman House  
Stafferton Way  
Maidenhead  
SL6 1AY

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – G CASINO LEISUREWORLD**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context. As Grosvenor had originally requested a delay we would hope that this course of action will be acceptable to yourselves.

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Emma Meredith

Andrew Cotton

Pram Nayak

Ann Bartaby

Julia Jardine

SCC Economic Development

Solicitor for Kymeira

Lucent Group

Terence O'Rourke

Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers.

A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detail plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

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- The Council had already been approached by Aspers and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
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Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

**Item 8**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,**  
**PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref:

Please ask for: Martin Grout

Your ref:

Grosvenor Casinos Ltd  
Statesman House  
Stafferton Way  
Maidenhead  
SL6 1AY

10<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – GROSVENOR CASINO; ROYAL PIER;  
MAYFLOWER PARK**

I refer to our earlier correspondence and apologise for the delay in responding. The Council has received a number of representations from the respective applicants and has taken advice on the matter.

We have decided to convene a Licensing Committee meeting to consider the future conduct of the competition. We are in the process of confirming the date and we anticipate this occurring in mid December although I am sure that you will appreciate there are a number of diaries to check for availability. Each applicant will have an opportunity to address the Committee although we will be asking that written submissions are made in advance such that they may be included within the final version of the committee report.

It will be for the Committee to decide on matters such as whether to postpone the commencement of Stage 2.

So that the matter is conducted fairly and transparently, we proposed to include in the report all the recent correspondence with all parties which deals with procedural matters. We do not believe that any commercial confidentiality attaches to it. Moreover, Stage 2 of the competition has not yet begun, and so we can see no basis for cloaking any of the correspondence in confidentiality. Should you take a different view in relation to correspondence with you, please will you let us know as soon as possible, together with the legal basis for any submission that the correspondence should not be included.

Yours faithfully,



A handwritten signature in black ink, appearing to read 'M. O. O.' with a stylized flourish at the end.

Locum Licensing Officer  
for Head of Legal and Democratic Services

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*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,**  
**PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref:

Please ask for: Martin Grout

Your ref:

Jeffery Green Russell  
Waverley House  
7-12 Noel Street  
London  
W1F 8GQ

14<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – KYMEIRA CASINO; ROYAL PIER; MAYFLOWER PARK**

Further to my letter of 10<sup>th</sup> November I am pleased to confirm that the Licensing Committee has been arranged for 16<sup>th</sup> December 2014 at 10 am in the Council Chamber at the Civic Centre. You are welcome to attend but we would ask you to submit any written submissions prior to the meeting such that it can be included within the contents of the report. The purpose of the written submission is to allow Members to be aware of the arguments in advance and not to prevent you or your client from addressing the committee on the day.

We believe that the attached correspondence is relevant to the specific issue of the Stage 2 commencement date and accordingly propose to include this within the committee report.

Please let me know if you disagree, with reasons, with our opinion and also if you believe we have omitted any document that you feel should be included.

I would be grateful if you could respond within the next 7 days and detail your position with respect to the issue in hand, namely the proposal to defer the commencement of Stage 2 of the process.

We will then send you a copy of the report prior to the hearing so that each party will be in a position to identify the position of each applicant.

I look forward to hearing from you.

Yours faithfully,

*M. K. O'Connell*

Locum Licensing Officer  
for Head of Legal and Democratic Services

## APPENDIX 1

### KYMEIRA CASINO LTD

DETAILS OF DOCUMENTS CONSIDERED RELEVANT TO THE ISSUE OF THE COMMENCEMENT OF STAGE 2 OF THE LARGE CASINO PROCESS.

		Date	Time
1.	e mail Martin Grout to Andrew Cotton	5/9/2014	10.08
2.	e mail Andrew Cotton to Martin Grout	19/9/2014	10.40
3.	e mail Martin Grout to Andrew Cotton	19/9/2014	20.14
4.	e Mail Andrew Cotton to Martin Grout	19/9/2014	21.37
5.	e mail Martin Grout to Andrew Cotton	22/9/2014	21.54
6.	e mail Andrew Cotton to Martin Grout	22/9/2014	22.32
7.	Notes of meeting 30 <sup>th</sup> September 2014	7/10/2014	
8.	e mail Martin Grout to Andrew Cotton	7/10/2014	08.04
9.	Letter SCC to Andrew Cotton	7/10/2014	
10	e mail Andrew Cotton to Martin Grout	9/10/2014	16.32
11	Letter SCC to Andrew Cotton	10/11/2014	

**Item 1**

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]

**Sent:** 05 September 2014 10:08

**To:** Grout, Martin

**Cc:** Andrew Cotton; 'elaine.whittle@rank.com'; 'joanne.morgan@bonddickinson.com'; 'davidnroberts@eversheds.com'; 'hagan@harrishagan.com'; 'Macgregor, Ewen'; 'Grimes, Becca'; 'Francesca Burnett-Hall'; 'Philip Kolvin QC'; Ivory, Richard

**Subject:** Stage 1 Licensing Committee meeting

Dear All

Please note that the decision notices are now available on <http://www.southampton.gov.uk/business/licensing/lqcsno/default.aspx>. The minutes of the meeting will be available in a few days time but I'm sure the important documents are on the link above.

Thank you to all the applicants who attended yesterday and helped the meeting go smoothly and to finish at a very reasonable hour. I apologise to those who had their representations withdrawn at the 11<sup>th</sup> hour but at least they were withdrawn.

Could I ask you to have a look at the stage 2 documentation which can be found at: <http://www.southampton.gov.uk/business/licensing/lqcsno/lcapps.aspx> and let me have any comments by Friday 19<sup>th</sup> September. If you focus on documents 12 – 20 it would be helpful but please note that document 16 will be updated with the current list of Members so you need not worry about that. As for the Advisory Panel (17) we are finalising those and when that is finalised I will update you on the Panel members.

We propose to commence Stage 2, subject to any appeal on the Stage 1 decisions, on 6<sup>th</sup> October with a closing date of 6<sup>th</sup> January 2015

Kind regards

Martin Grout

Locum Licensing Officer

Licensing Department

Legal and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

☐ [martin.grout@southampton.gov.uk](mailto:martin.grout@southampton.gov.uk)

Tel: 023 8083 2749

☐ Fax: 023 8083 4061

web: [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)

post: Licensing - Southampton City Council

**Item 2**

**From:** Andrew Cotton [mailto:acc@jgrlaw.co.uk]

**Sent:** 19 September 2014 10:40

**To:** Grout, Martin

**Cc:** Ivory, Richard; Pram Nayak (pram.nayak@btinternet.com); julia.jardine@torltd.co.uk; Ann Bartaby (ann.bartaby@torltd.co.uk)

**Subject:** RE: Stage Two

Dear Martin

Thank you for your email attaching the link to the Stage Two documentation issued to date.

I met with my clients on Wednesday afternoon to review the Stage Two process following the award of provisional determinations at Stage One.

It has become clear that we need to arrange a meeting to explore the issues that arise as a result of the changes in circumstances since the timetable for Stage Two was consulted upon back in February 2013. In particular, the fact that multiple parties for the same site have now secured Stage One grants and have the ability to move forward to Stage Two takes the process into uncharted waters. This has not occurred in any other casino competition held to date and in all other Stage Two competitions there has only been one applicant for each application site as any second applicant for a site at Stage One has dropped out and not proceeded to lodge a Stage Two application.

My clients appreciate that you only joined the Council's team after the competition had commenced on 1<sup>st</sup> April and this is one of the reasons we think a meeting would assist.

Please do not hesitate to give me a call to discuss before we meet. I understand that Emma Meredith has already raised certain matters with Richard.

Kind regards,

Andrew

Andrew Cotton  
Solicitor  
**for Jeffrey Green Russell Limited**

Direct Tel: [++44 - \(0\)20 7339 7173](tel:++44-020-7339-7173)  
Direct Fax: [++44 - \(0\)20 7307 0277](tel:++44-020-7307-0277)  
[www.jgrweb.com](http://www.jgrweb.com)

**Item 3**

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]

**Sent:** 22 September 2014 20:14

**To:** Andrew Cotton

**Subject:** RE: Stage Two

Dear Andrew

I picked this up earlier today and am liaising with Richard as to the best way forward with this. We do appreciate the issues that you have raised and will respond hopefully tomorrow, (Tuesday).

Kind regards

Martin



**Item 4**

**From:** Andrew Cotton [acc@jgrlaw.co.uk]  
**Sent:** 22 September 2014 21:37  
**To:** Grout, Martin  
**Cc:** Pram Nayak (pram.nayak@btinternet.com)  
**Subject:** RE: Stage Two

Martin

Thanks for your reply.

A meeting has already been arranged next Tuesday (30th) by Emma Meredith, who will be attending along with Richard Ivory. I will be attending together with Pram Nayak, who you met at the hearings, and Julia Jardine and Ann Bartaby from Terence O'Rourke, who only took over responsibility for progressing the planning application for the site in early June, roughly at the same time that my firm was instructed. New architects were appointed at the same time to take over responsibility for the development of a masterplan for the site. My clients hope that you will also be able to attend so you can be fully briefed on the background.

I am advised that there is no current masterplan approved by all parties to the Development Agreement, including of course Southampton City Council, as the plan attached to the Development Agreement is indicative only.

Regards,

Andrew

Andrew Cotton  
Solicitor  
**for Jeffrey Green Russell Limited**

Direct Tel: ++44 - (0)20 7339 7173  
Direct Fax: ++44 - (0)20 7307 0277  
[www.jgrweb.com](http://www.jgrweb.com)

**Item 5**

**From:** Grout, Martin [mailto:Martin.Grout@southampton.gov.uk]  
**Sent:** 22 September 2014 21:54  
**To:** Andrew Cotton  
**Cc:** Pram Nayak (pram.nayak@btinternet.com)  
**Subject:** RE: Stage Two

Yes, I'm planning on attending that meeting and hopefully something constructive will come out of it. I do then wonder whether the Council should hold an impromptu meeting with all applicants to discuss timescales but I'm not sure whether that could be achieved by an e mail exchange. GGV and Grosvenor might suggest that as they have applications for non RPW sites that they could realistically expect Stage 2 to start on time, so it is a bit of a minefield. As you say, I joined after the button had been pressed, as it were. I'm also keen that the Council isn't criticised for delaying Stage 2 after Stage 1 has finished.

I look forward to seeing you next week.

Kind regards

Martin

**Item 6**

**From:** Andrew Cotton [acc@jgrlaw.co.uk]  
**Sent:** 22 September 2014 22:32  
**To:** Grout, Martin  
**Cc:** Pram Nayak (pram.nayak@btinternet.com)  
**Subject:** RE: Stage Two

Martin

Pram and I both agree that it is important that we meet with you and Richard first to explain the background as we believe we have a solution that will prove acceptable to all parties.

Regards,

Andrew

Andrew Cotton  
Solicitor  
**for Jeffrey Green Russell Limited**

Direct Tel: ++44 - (0)20 7339 7173

Direct Fax: ++44 - (0)20 7307 0277

[www.jgrweb.com](http://www.jgrweb.com)

**Item 7**

**NOTE OF MEETING AT SCC CIVIC CENTRE TUESDAY 30<sup>th</sup> SEPTEMBER 2014 CONCERNING STAGE 2 OF THE CASINO LICENCE PROCESS.**

**PRESENT:**

Richard Ivory	SCC Head of Legal and Democratic Services
Martin Grout	SCC Locum Licensing Officer
Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

- Mr Nayak stated that they had been in discussions with all the 4 operators that submitted Stage 1 applications. The clear message that they have had from the majority of them is that they need a significant level of detail to be able to complete the Stage 2 application requirements, in particular there are detailed questions asking about the relationship between the proposed development and casino.
- He pointed out that the current timetable was set c. March 2013 and at a time when it was reasonably anticipated that the CLDA would be signed by no later than Sept 2013 and therefore the April 14 Stage 1 start was entirely sensible. However given the additional time required to deal with, amongst other things, Associated British Ports' points and Lucent Fund matters, the CLDA was not signed until late Feb 2014. The Casino timetable was however inadvertently overlooked and it was not until very recently that operators understood what was required at Stage 2.
- RPW (the Developer) is currently focussed on key obligations under the CLDA to move the Red Funnel ferry terminal to the Trafalgar Dock site. This is, he said, a fairly complex exercise and it is their priority obligation, along with land reclamation. The land reclamation area will house the commercial development including the casino. In addition they are reviewing and developing the indicative mixed use commercial scheme and have started market discussions. The Casino needs to dovetail into the scheme in terms of both masterplan and commercially and will need to therefore get the view of all potential operators on proximity/location.
- The original timetable set allowed for a c. 6 month period between the signing of the CLDA and the start of Stage 1, this time period is what they require currently to be able to work up a scheme with each operator to support their stage 2 submission. They would therefore hope that the council would be mindful to start the Stage 2 process in April 2015.

- Providing the additional time would ensure:
  - Robust and high quality proposals are provided that will better inform the Stage 2 scrutiny process and deal with a wide range of matters to a greater degree than is likely to be the case under the current timetable, (and to ensure that the casino aspect of the development was effectively controlled in terms of any clear effective licensing conditions applied to a detailed comprehensive development )
  - All proposals would be reviewed in advance by the Regeneration Team on the following basis:
    - The quality of the proposed development,
    - Planning considerations and
    - Proposals complied with any CLDA obligations, prior to the scrutiny of the Stage 2 Panel to ensure that each scheme met with licensing obligations.
  - RPW would have a high degree certainty of being able to fund and deliver agreed regeneration outcomes via the final scheme with the operator selected by the Council's Licensing Panel.
  - Each applicant has an equal chance to secure the award of a licence
  - The council securing the greatest benefit to its preferred site from the licensing process

**Item 8**

Tue 07/10/2014 08:04

Grout, Martin [Martin.Grout@southampton.gov.uk](mailto:Martin.Grout@southampton.gov.uk)

Casino Licence Process Stage 2

'acc@jgrlaw.co.uk'

Dear Andrew

Please find attached a letter concerning a possible delay in the commencement of Stage 2 of the process. I would be grateful if I could have your comments as a matter of urgency and preferably no later than Friday 10th October.

Kind regards

Martin Grout

**Item 9**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence  
to: **Licensing – Southampton City  
Council,  
PO Box 1767, Southampton, SO18  
9LA**



Direct dial: 023 8083 2749 E-mail: martin.grout@southampton.gov.uk  
Our ref: 2014/02543/70SLCP Please ask Martin Grout  
for:  
Your ref: ACC/21784.00001

Jeffery Green Russell  
Waverley House  
7-12 Noel Street  
London  
W1F 8GQ

7<sup>th</sup> October 2014

Dear Sirs,

**GAMBLING ACT 2005 – KYMEIRA CASINOS UK LTD; ROYAL PIER;  
MAYFLOWER PARK**

Further to my e mail on 30<sup>th</sup> September I am now writing to formally ask you for your comments on the Council's proposal and to put the matter into slightly more context.

On Tuesday 30<sup>th</sup> September Richard Ivory and Martin Grout met with the developers behind the Royal Pier Waterfront development. Also present at the meeting was

Emma Meredith	SCC Economic Development
Andrew Cotton	Solicitor for Kymeira
Pram Nayak	Lucent Group
Ann Bartaby	Terence O'Rourke
Julia Jardine	Terence O'Rourke

The meeting had been called at the request of the developer to assess the current position of the scheme given changes in personnel at the developers. A note of the discussion was made and is attached but these are not a verbatim account of the meeting.

Mr Nayak pointed out that they were not in a position to provide applicants who had expressed an interest in the casino component of the development with the detailed plans that Stage 2 requires. They would not be in such a position for, they estimated, another 6 months and accordingly asked the Council to consider deferring the commencement of the stage 2 for that period.

As I mentioned in my earlier message, the Council would be prepared to do this on the following basis:

- The Council had already been approached by Aspers and Grosvenor with a request to defer the start of Stage 2 for the very same reasons that the developer was advancing.
- These requests were not solicited by the Council nor was the Council aware of the issues previously. The application pack indicated that any timetable is provisional and not set in stone.
- The issue is a significant issue one which affects each of the applicants.
- The purpose of the competition is to raise benefits for SCC and it has become clear that for that to happen on the Royal Pier site would necessitate some delay.

There has been a criticism that this is another delay in a process that has taken years to come to fruition. It is precisely for that reason that the Council does not wish to jeopardise all the hard work that has taken place to reach today's position by forging ahead when it would not be able to achieve the maximum benefit from the scheme, should the winning scheme be at Royal Pier.

However, the Council has not yet made a decision on the matter. I would ask that any representation to the proposed course is set out with full particularity. In particular the representation should make it clear whether it is suggested that there is a legal impediment to this suggested course, and if so this should be set out in full so that the Council may take advice upon it immediately.

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services



**Item 10**

**From:** Andrew Cotton [acc@jgrlaw.co.uk]  
**Sent:** 09 October 2014 16:32  
**To:** Grout, Martin  
**Subject:** Stage 2

**Follow Up Flag:** Follow up  
**Flag Status:** Yellow  
Martin

I will be forwarding an email either later this evening or in the morning supporting a deferral once I have agreed the detail with my clients.

Just back from IOL training.

Regards,

Andrew Cotton  
Solicitor  
**for Jeffrey Green Russell Limited**

Direct Tel: [++44 - \(0\)20 7339 7173](tel:++44-(0)20-7339-7173)  
Direct Fax: [++44 - \(0\)20 7307 0277](tel:++44-(0)20-7307-0277)  
[www.jgrweb.com](http://www.jgrweb.com)

**Item 11**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership**

Southampton City Council  
Licensing Services  
Civic Centre  
Southampton SO14 7LY

Please address all correspondence to:  
**Licensing – Southampton City Council,  
PO Box 1767, Southampton, SO18 9LA**



Direct dial: 023 8083 2749

E-mail: martin.grout@southampton.gov.uk

Our ref:

Please ask for: Martin Grout

Your ref:

Jeffery Green Russell  
Waverley House  
7-12 Noel Street  
London  
W1F 8GQ

10<sup>th</sup> November 2014

Dear Sirs,

**GAMBLING ACT 2005 – KYMEIRA CASINO; ROYAL PIER; MAYFLOWER PARK**

I refer to our earlier correspondence and apologise for the delay in responding. The Council has received a number of representations from the respective applicants and has taken advice on the matter.

We have decided to convene a Licensing Committee meeting to consider the future conduct of the competition. We are in the process of confirming the date and we anticipate this occurring in mid December although I am sure that you will appreciate there are a number of diaries to check for availability. Each applicant will have an opportunity to address the Committee although we will be asking that written submissions are made in advance such that they may be included within the final version of the committee report.

It will be for the Committee to decide on matters such as whether to postpone the commencement of Stage 2.

So that the matter is conducted fairly and transparently, we proposed to include in the report all the recent correspondence with all parties which deals with procedural matters. We do not believe that any commercial confidentiality attaches to it. Moreover, Stage 2 of the competition has not yet begun, and so we can see no basis for cloaking any of the correspondence in confidentiality. Should you take a different view in relation to correspondence with you, please will you let us know as soon as possible, together with the legal basis for any submission that the correspondence should not be included.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. [unclear]'. The signature is written in a cursive style with a large initial 'M'.

Locum Licensing Officer  
for Head of Legal and Democratic Services

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ASPERS

M. Grout Esq.  
Locum Licensing Officer  
Licensing Department  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council  
PO Box 1767,  
Southampton SO18 9LA

19 November 2014

Dear Sir

## **LARGE CASINO COMPETITION**

Thank you for your letter of 14 November.

I am happy that correspondence is relevant to the Stage 2 commencement date and may be included in the committee report.

I have nothing to add to my letter of 19 September. Our position remains that we, as an operator, are unable to compile a sensible proposal for the competition until the developer of the Royal Pier is able to provide as a minimum, the information outlined in my previous letter.

We understand that the developer is still unable to provide such information, and consequently if we are to provide proposals that give the best value to Southampton, then we believe the competition should be delayed until the information becomes available.

Yours faithfully

Martyn Kennedy  
Finance Director

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**SUBMISSIONS ON BEHALF OF GLOBAL GAMING VENTURES (RP) LIMITED**

**AND**

**GLOBAL GAMING VENTURES (SOUTHAMPTON) LIMITED**

**IN RELATION TO A HEARING ON THE 16th DECEMBER 2014**

**SOUTHAMPTON CITY COUNCIL**

**LARGE CASINO LICENCE APPLICATION PROCESS**

---

**1. Introduction**

Southampton City Council (**SCC**) has decided to convene a special meeting of its Licensing Committee to consider the future conduct of the Gambling Act 2005 Large Casino Competition (**the Competition**).

SCC has asked that all parties detail their position in respect of the issue in hand in advance of the hearing, namely the proposal to defer commencement of Stage 2 of the Competition and the conduct of the Competition more generally.

These submissions are made on behalf of Global Gaming Ventures (Southampton) Limited (**GGV(S)Ltd**) and Global Gaming Ventures (RP) Limited (**GGV(RP)Ltd**) which are affiliated companies of Global Gaming Ventures Limited (**'GGV'**).

We refer to GGV(S)Ltd and GGV(RP)Ltd together as the **'GGV Applicants'**.

The background to the circumstances giving rise to this meeting is set out in Annex 1 to this submission.

**2. Summary of the GGV Applicants' Concerns**

The GGV Applicants believe that [the DCMS Code of Practice and the principles of natural justice applying to the conduct of the Competition] are in danger of being breached insofar as:

- a. SCC is considering delaying Stage 2 of the Competition for the sole or primary purpose of allowing Lucent Group Holdings Limited and its affiliates (**'Lucent'**) (the developers of the Royal Pier project) additional time to improve the state of preparedness of their project and thereby advantaging Lucent and/or certain applicants.
- b. The proposal for such delay originated in a private meeting between Lucent and officials of SCC which took place after the Competition had commenced and which was also attended by representatives of one single applicant (an applicant which is also owned by or associated with Lucent). This meeting was also attended by the

specialist gaming solicitor who represented Kymeira Casino Limited (the applicant concerned) at Stage 1 of the Competition. Such meetings during the Competition are highly undesirable insofar as, an absolute minimum, they give rise to a suspicion that one applicant or group of applicants is being improperly preferred over the remaining applicants.

- c. Whilst, prior to the launch of the Competition, SCC was free to express a preference for the Royal Pier scheme, such preference must not be permitted to affect the conduct of the Competition. It is unacceptable for officers of the Council to collude with a selected applicant so as to order or re-organise the conduct of the Competition to advantage that applicant or applicants. This is especially true if the economic benefit of such procedural change is clearly understood to be likely to accrue to the private developer or one of the applicants rather than the Council.
- d. Officers of SCC involved in the Competition are or may, be engaged in lobbying for SCC to take other decisions for the sole purpose of advancing the Competition prospects of certain applicants and are undertaking such activities whilst the Competition is underway.

In particular, officers have pressed for a SCC decision that the Watermark development scheme in Southampton is unsuitable for a casino with the sole purpose of advantaging the Royal Pier scheme either (a) regardless of the compelling evidence that the Watermark site is perfectly suitable for a casino or (b) without undertaking any proper assessment of the merits of the case.

### 3. The Legal Framework

On the 26<sup>th</sup> February 2008, the DCMS produced a "Code of Practice – Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos" (**the Code of Practice**). A copy of the Code of Practice can be found at **Annex 2**.

By virtue of paragraph 6 (2) of Schedule 9 of the Gambling Act 2005, a licensing authority **MUST** comply with this Code of Practice (*para. 1.3 of the Code of Practice*).

The Code of Practice states, inter alia, the following:

- 3.1 A Licensing Authority must ensure that the procedure they follow in making any determinations required by paragraphs 4 and 5 of the Schedule is fair, having regard to the provisions of the Act.
- 3.2 It must also ensure that each application is determined by the licensing authority according to criteria which are...
  - 3.2.3 – not pre-selected to favour a particular applicant or application
  - 3.3 – A licensing authority must ensure that any pre-existing contract, arrangement or other relationship they have with any person does not affect the procedure so as to make it unfair (or appear unfair) to any applicant.

In March 2013 SCC produced a "Procedure Note" in relation to the Competition "to ensure that the competition process is both fair and transparent".



A copy of the "Procedure Note" is produced at **Annex 3**.

#### **4. Potential Prejudice to the GGV Applicants**

The current situation gives rise to serious concerns, on the following basis.

- a. The GGV Applicants were and are entitled to assume that the Competition will be properly and fairly carried out in accordance with the Code of Practice and all other legal requirements and in accordance with the standards of fairness and propriety that can be expected of a major city council undertaking a quasi-judicial process.
- b. On this basis, GGV and the GGV Applicants have incurred significant legal fees and architectural and design and other consultancy costs , all predicated on the pre-announced timetable, as well as making an extremely significant commitment of time and effort by their directors and senior management.
- c. Furthermore, during Stage 1 of the Competition, the GGV Applicants were required to disclose a considerable amount of commercially confidential information. This included (but was not limited to) the important disclosure that a casino at the Watermark scheme was possible and is commercially attractive.
- d. Any changes which result in a delay to the Competition or which otherwise prevent the Competition from proceeding in accordance with the announced timetable and methodology (or as close to this as is now reasonably possible) will cause substantial prejudice to one or both GGV Applicants insofar as:
  - i. The Royal Pier applicants are advantaged and therefore the GGV(S)Ltd's Watermark scheme has a reduced chance of winning the Competition
  - ii. Lucent, as developer of the Royal Pier, is able to secure improved letting terms (e.g. a higher rent or a lump sum in exchange for its support) from applicants such as GGV(RP) Ltd as a result of the delay.
  - iii. The GGV Applicants are required to spend additional management time and effort and incur additional legal costs as a result of the need to address legitimate concerns regarding the Competition process
- e. GGV(S)Ltd is also in a position where, in the event that SCC's conduct of the Competition is legally challenged with the result that the Competition has to be re-opened or re-run then its commercially confidential plans (as revealed in Stage 1) would be known to other prospective applicants to its potential material detriment.

#### **5. Vital Action which the GGV Applicants are Seeking from SCC**

The GGV Applicants believe that the current problem, though serious, is capable of being resolved and that there is a route forward for SCC which will result in the completion of a fair and open competition.

This requires two important but simple urgent steps by the SCC Licensing Committee:

- a. Stage 2 of the Competition should commence (or re-commence) on Monday 5<sup>th</sup> January 2015 and should proceed from there in a timely fashion consistent with the pace indicated in the earlier announcements
- b. The SCC Licensing Committee should make a clear determination that all SCC officers involved in the running of the Competition process (or managing or supervising such process or managing or supervising individuals involved in the process) are in a quasi-judicial position and accordingly are to refrain from:
  - i. Lobbying for or otherwise supporting, advocating, assisting or advantaging any applicant or site
  - ii. Being involved in any SCC decisions which may have the primary or secondary purpose of advantaging any Competition applicant
  - iii. Meeting or otherwise discussing or corresponding with Lucent or any individual applicant or group of applicants about the conduct and progress of the Competition otherwise than through the formal and transparent Competition process.

GGV wishes to make clear, for the avoidance of doubt, that without limiting the scope of the above, its clear view is that the Legal and Democratic Services Department (which is, inter alia, responsible for licensing matters) should not be involved in any capacity as an advocate for the Royal Pier schemes and should be absolutely forbidden from seeking to change the rules and conduct of the Competition so as to advantage individual schemes or applicants.

## **6. Other Points**

GGV notes that there is now a considerable body of national experience in the conduct of casino competitions. GGV and its directors and key team members have been involved in the winning applications in the competitions in Bath, Leeds, Milton Keynes and Newham.

Whilst in some cases there have been delays or procedural adjustments during the competitions, these have never been for the purpose of advantaging one site or applicant over another. To the best of our knowledge there has never been an instance of a Council changing the rules, or the timetable, during a competition in order to benefit a private developer.

If a particular project is running late or is uncertain, then the Licensing Committee is perfectly able to take this into account as part of the Competition process insofar as it falls within the pre-determined scoring matrix.

GGV remains very eager to develop and operate a casino in Southampton. It is a wonderful city and GGV will be proud to be present here. GGV expects to develop an international standard casino which will be fitting and appropriate addition to a city of the standing (and with the ambition) of Southampton.

It is for precisely this reason that GGV wants to win (as GGV believes it can) in a fair, open and transparent Competition conducted to the highest standards and free of challenge. Such a Competition is surely a reasonable expectation.

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Martin Grout  
Locum Licensing Officer, Licensing Department  
Legal and Democratic Services  
Southampton and Eastleigh Licensing Partnership  
Southampton City Council  
Civic Centre  
Southampton  
SO14 7LT

27<sup>th</sup> November 2014

Dear Martin,

### **RPW Development Update**

I write further to your email of the 14<sup>th</sup> November and to provide you with an update as to current progress on the Royal Pier Waterfront Development.

We continue to be focussed on the delivery of our initial obligations under the Development Agreement, which are principally to move the Red Funnel ferry terminal to the Trafalgar Dock site and to reclaim the land development platform. As you know the land reclamation area will house the commercial development including the casino and other commercial retail, including residential development.

We are reviewing and developing the indicative mix of uses and have started various market discussions. Obviously the Casino needs to dovetail into the scheme in terms of the masterplan and this must be resolved with clarity so that stage 2 applications can be submitted with particularity.

Once the timetable point has been resolved we intend to have structured commercial and masterplan discussions with all interested Stage 1 operators, to ensure we can incorporate their site and commercial requirements. I have asked the design team what they require in terms of additional time, and they have told me that the site detail required is greater than initially anticipated.

We also need to consider what impact, (if any), there may on the Development Agreement initial delivery requirements. In particular there is a key obligation on us to formally consult all the landowners during any design development iterations, (known as the "ratcheted consultation process"), this obligation is time intensive and as such we anticipate requiring additional time up to at least May 2015 to also take into account this consultation process. I will update you if this should fundamentally change.

Lucent Advisors UK Limited  
2<sup>nd</sup> Floor, Athenia House,  
10-14 Andover Road,  
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Directors: R. Quirk, P. Nayak

I can confirm that additional time would ensure that:

- Robust and high quality proposals are provided that will better inform the Stage 2 scrutiny process and deal with a wide range of matters to a greater degree than is likely to be the case under the current timetable, (and to ensure that the casino aspect of the development is effectively controlled in terms of any clear effective licensing conditions applied to a detailed comprehensive development).
- RPW would have a high degree certainty of being able to fund and deliver agreed regeneration outcomes via the final scheme with the operator selected by the Council's Licensing Panel.
- Each applicant has an equal chance to secure the award of a license.
- The council securing the greatest benefit to the area from its preferred site from the licensing process.

I trust that this provides you with a view on the current progress but please do not hesitate to contact me should you require any further information.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Pram Nayak".

**Pram Nayak**  
Commercial Director,  
For and on behalf of RPW Ltd.

### ANNEX 1

#### Background

In 2006, SCC made an application to the Casino Advisory Panel for a Regional Casino. If the proposal for the regional casino was unsuccessful SCC indicated that their fall back/second proposal was for a large casino licence.

In this application SCC indicated that a preferred location had been identified. This was the waterfront site at Royal Pier.

By virtue of the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008, SCC was one of eight licensing authorities who were permitted to issue a large casino premises licence.

In March 2013 SCC issued a "Procedure Note" in relation to the Competition.

Within the "Procedure Note" a provisional timetable for the Competition Process was set out as follows:

1 April 2014: Start of Stage 1

1 July 2014: Closing Date for Stage 1 applications

1 Sept 2014: Decision at Stage 1

6 Oct 2014: Invitation to participate in Stage 2 (subject to any Appeals).

6 Jan 2015: Closing date for submission of Stage 2 applications.

March 2015: Draft recommendation of Advisory Panel issued.

April/May 2015: Decision of Authority at Stage 2 and award of casino licence/  
provisional statement.

The Stage 1 process started on the 1<sup>st</sup> April in accordance with the provisional timetable.

Applications for provisional statements at Stage 1 of the Competition Process were lodged by GGV(RP)Ltd and GGV(S)Ltd relating to proposed premises at the Royal Pier and Watermark sites respectively.

These applications were lodged in accordance with the timetable as set out above.

On the 4<sup>th</sup> September 2014 SCC Licensing Committee considered the applications for provisional statements lodged by GGV(RP)Ltd and GGV(S)Ltd along with applications lodged on behalf of Aspers Universal Limited, Genting Casinos UK Limited, Grosvenor Casinos Limited and Kymeira Casino Limited in respect of the Royal Pier.

An application for a provisional statement was also lodged by Grosvenor Casinos Limited in respect of their existing casino situated at Leisureworld, West Quay Road, Southampton, SO15 1RE.

Following hearings of each of the Stage 1 applications, all of the applications were granted.

Confirmation of this was provided to each of the applicants via email from Martin Grout, Locum Licensing Officer of SCC, on the 5<sup>th</sup> September.

In the same email, Mr Grout invited each applicant "to have a look at the Stage 2 documentation...and let (him) have any comments by Friday 19<sup>th</sup> September."

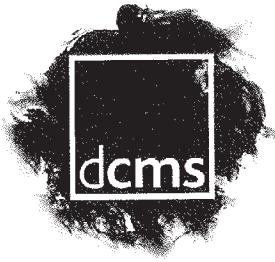
Applicants were **not** invited to comment on the proposed timings of the commencement of Stage 2 of the Competition.

In the same email Mr Grout also advised that "(SCC) propose to commence Stage 2, subject to any appeal on the Stage 1 decisions, on 6<sup>th</sup> October (being the date given in the provisional timetable as set out above) with a closing date of 6<sup>th</sup> January 2015.

On the 30<sup>th</sup> September 2014, Martin Grout contacted those instructed on behalf of GGV(RP)Ltd and GGV(S)Ltd advising that "two of the applicants have enquired about the Council postponing the commencement of Stage 2 and I should say that the Council are minded to agree this. We will be in a position to confirm this hopefully by the end of the week and would be looking to commence Stage 2 in April 2015. We have been in discussion with the developer and understand that reasons why a delay should be implemented."

Instructing solicitors were asked to confirm whether GGV(RP)Ltd and GGV(S)Ltd would be in agreement with the proposal to delay the start of Stage 2 of the Competition by 6 months.





department for  
**culture, media  
and sport**

## Code of Practice

Determinations under Paragraphs 4 and 5 of Schedule 9 to the  
Gambling Act 2005 relating to Large and Small Casinos

Issued by the Secretary of State for Culture, Media and Sport  
on 26th February 2008

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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## Section 1: Introduction

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- 1.1 This Code of Practice is issued by the Secretary of State for Culture, Media and Sport under paragraph 6 of Schedule 9 to the Gambling Act 2005. It should be read alongside Part 8 of and Schedule 9 to that Act.
- 1.2 This Code of Practice is about:
  - 1.2.1 the procedure to be followed by a licensing authority in making any determinations required by paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005; and
  - 1.2.2 matters to which a licensing authority should have regard in making those determinations.
- 1.3 Under paragraph 6(2) of Schedule 9 to the Gambling Act 2005, a licensing authority must comply with this Code of Practice.

## Section 2: Definitions

---

2.1 In this Code of Practice:

**the Act** means the Gambling Act 2005,

**application**, unless the contrary intention appears, means:

- (a) an application under section 159 of the Act for a large or small casino premises licence, or
- (b) an application under section 204 of the Act for a provisional statement in respect of a large or small casino,

and a reference to an **applicant** shall be construed accordingly,

**the invitation regulations** means the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008<sup>1</sup> and a reference to an **application pack** or **invitation** means an application pack made available or invitation published under those regulations,

**second stage applicants** has the meaning given in paragraph 5.4.1 below,

**the Schedule** means Schedule 9 to the Act, and

**the second stage** means the second stage of the two-stage consideration procedure under the Schedule, by which a licensing authority makes the determination required by paragraph 5 of the Schedule.

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<sup>1</sup> S.I. 2008/469

## Section 3: General Principles to Govern Procedure

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- 3.1 A licensing authority must ensure that the procedure they follow in making any determinations required by paragraphs 4 and 5 of the Schedule is fair, having regard to the provisions of the Act.
- 3.2 Subject to the provisions of the Act, the procedure must allow any person to make an application. It must also ensure that each application is determined by the licensing authority according to criteria which are:
- 3.2.1. the same for all applications;
  - 3.2.2. made known to all applicants; and
  - 3.2.3. not pre-selected to favour a particular applicant or application.
- 3.3 A licensing authority must ensure that any pre-existing contract, arrangement or other relationship they have with any person does not affect the procedure so as to make it unfair (or appear unfair) to any applicant. In particular, a licensing authority must:
- 3.3.1. in determining the principles that they propose to apply in making the determination under paragraph 5 of the Schedule, disregard any such contract, arrangement or other relationship;
  - 3.3.2. before publishing an invitation, put in place arrangements to ensure that any such contract, arrangement or other relationship does not, actually or apparently, prejudice their ability to conduct the procedure fairly; and

- 3.3.3. after the closing date (as defined in the invitation regulations) but before considering an application, prepare a register of interests disclosing their interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant.
- 3.4 A copy of the information in the register of interests referred to in paragraph 3.3.3 above must be provided by the licensing authority free of charge to each applicant and to any other person who requests it.
- 3.5 For the purposes of paragraph 3.3.3 above:
- 3.5.1. a person is “connected with” an applicant if, were the applicant a director of a company, the person would be connected with the applicant within the meaning of section 252 of the Companies Act 2006; and
- 3.5.2. a person is “associated with” an applicant if the applicant is a body corporate and the person is an associated body corporate under section 256 of the Companies Act 2006.
- 3.6 Paragraph 3.3 above does not apply to an agreement between a licensing authority and an applicant entered into during the second stage under paragraph 5(3)(b) of the Schedule.
- 3.7 Licensing authorities should bear in mind section 210 of the Act, which provides that:
- 3.7.1. in making a decision in respect of an application, a licensing authority shall not have regard to whether a not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building; and
- 3.7.2. a decision in respect of an application shall not constrain any later decision by the authority under the law relating to planning or building.

## Section 4: The First Stage of the Consideration Procedure

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- 4.1 In making any determination required by paragraph 4 of the Schedule, a licensing authority must apply the procedure for assessing applications for premises licences which they ordinarily apply to such applications, subject to the modifications of that procedure noted in paragraph 4.2 below. That procedure is governed by Part 8 of the Act, including statutory instruments made under that Part.<sup>2</sup> Section 153 of the Act sets out the principles to be applied by a licensing authority in exercising their functions under Part 8.
- 4.2 For the purposes of making any determination under paragraph 4 of the Schedule, Part 8 of the Act is modified by paragraph 4(2)(b) and (c) of the Schedule. Paragraph 4(2)(b) provides that each competing applicant is an interested party in relation to each of the other competing applications.
- 4.3 In making any determination required by paragraph 4 of the Schedule, a licensing authority must not take into account any matters which they would not ordinarily take into account in determining an application for a premises licence. In particular, a licensing authority must comply with paragraph 4(2)(a) of the Schedule, which provides that an authority must not have regard to whether any of the competing applications is more deserving of being granted.

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<sup>2</sup> In particular, in relation to applications in England and Wales, the Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (S.I. 2007/459); and in relation to applications in Scotland, the Gambling Act 2005 (Premises Licences and Provisional Statements) (Scotland) Regulations 2007 (S.S.I. 2007/196)



- 4.4 Regulation 6(1)(a) of the invitation regulations requires that an application pack include a statement that no information, other than information required by the regulations that govern the making of applications,<sup>3</sup> be included in or submitted with an application. Where any such information (including information which is relevant to a determination under paragraph 5 of the Schedule but is not also relevant to the determination under paragraph 4) is nevertheless included in or submitted with an application, the licensing authority must:
- 4.4.1. disregard it in making the determination required by paragraph 4 of the Schedule; and
  - 4.4.2. if possible, return it to the applicant.
- 4.2 Regulation 6(1)(b) and (2) of the invitation regulations requires that an application pack include a statement of the procedure the licensing authority propose to follow in making any determination required by paragraph 4 of the Schedule (together with the procedure the authority propose to follow in making any determination required by paragraph 5). As noted in paragraph 4.1 above, the procedure to be followed under paragraph 4 of the Schedule is the procedure for assessing applications for premises licences which a licensing authority ordinarily apply to such applications, subject to the modifications of that procedure noted in paragraph 4.2 above.

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<sup>3</sup> That is, the regulations referred to in footnote 2.

## Section 5: The Second Stage of the Consideration Procedure

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- 5.1 Before publishing an invitation, a licensing authority must determine:
- 5.1.1. the procedure they propose to follow, and
  - 5.1.2. the principles they propose to apply,
- in making any determination required by paragraph 5 of the Schedule.
- 5.2 Regulation 6(1)(b), (d) and (2) of the invitation regulations requires that statements of:
- 5.2.1. that procedure (together with the procedure the authority propose to follow in making the determination required by paragraph 4 of the Schedule), and
  - 5.2.2. those principles,
- be included in an application pack.
- 5.3 In addition, section 349(7) of the Act requires that those principles be included in the licensing policy statement published by a licensing authority under that section.
- 5.4 The procedure a licensing authority propose to follow in making any determination required by paragraph 5 of the Schedule must provide for the following:
- 5.4.1. Where a licensing authority determine under paragraph 4 of the Schedule that they would, if they were able, grant more than one application, the applicants who made those

applications (“the second stage applicants”) must be invited to participate in the second stage.

- 5.4.2. During the second stage, each of the second stage applicants must be given an equal opportunity to demonstrate to the licensing authority how their application would, if granted, result in the greatest benefit to the authority’s area.
  - 5.4.3. At the outset of the second stage, each of the second stage applicants must be invited to submit information to the authority about how their application would, if granted, benefit the authority’s area.
  - 5.4.4. A licensing authority may engage in discussions or negotiations during the second stage with each second stage applicant with a view to the particulars of an application being refined, supplemented or otherwise altered so as to maximise the benefits to the authority’s area that would result from it (were it granted).
  - 5.4.5. A licensing authority may not, during the second stage, discuss the details of a person’s application with the other competing applicants without the person’s permission.
  - 5.4.6. A licensing authority must put in place a protocol governing the storage of confidential information submitted to them during the second stage, so as to maintain the confidentiality of that information.
- 5.5 In determining the procedure, licensing authorities should bear in mind that, under paragraph 5(3)(b) of the Schedule, they may enter into a written agreement with an applicant during the second stage. Under paragraph 5(3)(d), a licensing authority may take any such agreement into account in determining, under paragraph 5(3)(a), which application would be likely if granted to result in the greatest benefit to the authority’s area.

- 5.6 The power under paragraph 5(3)(b) of the Schedule is a broad one: an agreement may be “as to the provision of services in respect of an authority’s area or otherwise”. An agreement may, for example, record the outcome of the discussions or negotiations referred to in paragraph 5.4.4 above and may be conditional on a licensing authority granting a casino licence to the applicant that is party to the agreement. Licensing authorities should consider the effect (if any) of other legislation (for example the Public Contracts Regulations 2006) on an agreement proposed or entered into under paragraph 5(3)(b) of the Schedule.
- 5.7 In determining the principles they propose to apply in making any determination required by paragraph 5 of the Schedule a licensing authority:
- 5.7.1. must consider what aspects of an application will be relevant to determining which of the applications would if granted be likely to result in the greatest benefit to the authority’s area;
  - 5.7.2. should consider local issues and priorities;
  - 5.7.3. must consult a person or people who appear to represent the interests of local people and businesses, although if they have already consulted about a related matter (for example, in relation to their licensing policy statement published under section 349 of the Act) they need not engage in further consultation, as long as the views expressed in the earlier consultation are taken into account; and
  - 5.7.4. may wish to pay particular regard to the following:
    - (a) the provision that is made in an application for protecting children and other vulnerable people from harm or exploitation arising from gambling, whether in the proposed casino or the wider community,
    - (b) the provision that is made in an application for preventing gambling from being a source of crime or

disorder, being associated with crime or disorder or being used to support crime,

- (c) the provision that is made in an application for ensuring that gambling is conducted in a fair and open way,
- (d) the likely effects of an application on employment and regeneration within the authority's area,
- (e) the design and location of the development proposed in the application,
- (f) the range and nature of non-gambling facilities to be offered as part of the development proposed in the application, and
- (g) the financial and other contributions a second stage applicant proposes to make to the authority's area, whether pursuant to an agreement under paragraph 5(3)(b) of the Schedule or otherwise.



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## **Southampton City Council**

### **Gambling Act 2005**

#### **Competition for grant of large casino premises licence**

##### **Procedure Note**

**March 2013**

## 1 Introduction

- 1.1 In May 2008 Parliament gave Southampton City Council (“the Authority”) the right to grant a premises licence for a large casino under the Gambling Act 2005.<sup>1</sup>
- 1.2 Before granting such a licence, the Authority must hold a competition.
- 1.3 The purpose of this Procedure Note is to inform potential applicants of the rules of the competition. It is published to conform with the requirements set by Parliament and the Secretary of State,<sup>2</sup> and to ensure that the competition process is both transparent and fair.

## 2 What is a large casino?

- 2.1 The definition of a large casino is set out in the Gambling Act 2005 and in Regulations. Applicants should take advice as to the detailed statutory requirements. What follows is a general guide.
- 2.2 A large casino is a casino<sup>3</sup> in which the combined floor area of those parts of the casino which are used to provide facilities for gambling is at least 1,500 square metres but less than 3,500 square metres.<sup>4</sup> The table gaming area itself must be at least 1,000 square metres, and may comprise a number of separate areas, although no area under 125 square metres may be taken into account.<sup>5</sup>
- 2.3 The casino may offer gaming machines of categories B, C or D.<sup>6</sup> The number of gaming machines must be no more than 5 times the number of gaming tables used in the casino, and must in any case not exceed 150.
- 2.4 The casino may also make facilities available for betting, bingo and betting on the outcome of a virtual game, race, competition or other event or process.<sup>7</sup>

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<sup>1</sup> The Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 (SI 2008/1327).

<sup>2</sup> Gambling Act 2005, Part 8 and Schedule 9; The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 (SI 2008/469); The Code of Practice for Determinations under Paragraphs 4 and 5 of the Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos (“Competition Code of Practice”).

<sup>3</sup> The definition of a casino is set out in section 7 of the Gambling Act 2005.

<sup>4</sup> The Categories of Casinos Regulations 2008 (SI 2008/1330).

<sup>5</sup> Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409).

<sup>6</sup> Section 172 Gambling Act 2005, The Categories of Gaming Machines Regulations 2007 (SI 2007/2158).

<sup>7</sup> Sections 172, 174 Gambling Act 2005.



2.5 There must be one or more non-gambling area(s) totalling at least 500 square metres. The total area may include, but must not solely comprise, lobby and toilet facilities. Each non-gambling area (other than the lobby and toilet facilities) must offer recreational facilities at all times that gambling facilities are being provided on the premises.<sup>8</sup>

### **3 The two stage application process**

- 3.1 Parliament has provided for a two-stage application process.<sup>9</sup>
- 3.2 At Stage 1 applicants must apply for a casino premises licence or provisional statement. Applications will be judged in the same way as for all other premises licences under the Gambling Act 2005, according to the principles in section 153.
- 3.3 If there is only one successful applicant, the Gambling Act 2005 requires that the licence (or, as the case may be, the provisional statement) will be awarded to that applicant.
- 3.4 If there is more than one successful applicant, Stage 2 of the competition will be activated. The licence (or provisional statement) will then be awarded to the application which would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area.
- 3.5 Further detail of the procedure, including the rules of the competition, are set out below.

### **4 Stage 1 of the competition**

- 4.1 The procedure at Stage 1 of the competition is set out briefly below. Applicants should take legal advice on these provisions, if further detail is required.
- 4.2 An application for a premises licence or a provisional statement must be made to the Authority in the form and manner prescribed by the Gambling Act 2005 (Premises Licence and Provisional Statements) Regulations 2007<sup>10</sup> ("the Application Regulations") and must be accompanied by the appropriate fee.<sup>11</sup> The application must be made by the "closing date" set out in section 9 below.
- 4.3 An application for a premises licence may only be made by a person who:

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<sup>8</sup> Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409).

<sup>9</sup> Schedule 9 Gambling Act 2005.

<sup>10</sup> SI 2007/459.

<sup>11</sup> The fees are set out in the fees schedule enclosed with this Pack.

- i) holds a casino operating licence or has made an application for such an operating licence which has not yet been determined; and
- ii) has a right to occupy the premises to which the application relates.<sup>12</sup>

4.4 If the applicant cannot satisfy these requirements, the applicant may nevertheless apply for a provisional statement.<sup>13</sup>

4.5 Following the making of the application, the applicant must give notice to the responsible authorities, advertise the application and display a site notice, all in accordance with the Application Regulations.<sup>14</sup>

**4.6 It is important to note that an application made before the closing date is to be treated as if it were made on the closing date.**<sup>15</sup> Therefore, the period for representations specified in notices to responsible authorities, advertisements and site notices must be calculated from the closing date and not the date when the application was in fact made. Furthermore, in calculating the period within which notice of the application has to be given to responsible authorities, the period within which the application must be advertised, and the period during which site notices have to be displayed, the closing date must again be substituted for the date when the application was actually made.

4.7 The effect of this is as follows (dates provided as indicative). Where the closing date for Stage 1 Applications is Tuesday 1 July 2014, the Applicant is required to:

- issue notice of the application to responsible authorities within a period of 7 days beginning on the date the application is made, i.e. by Monday 7 July 2014.
- advertise the application in a local newspaper within 10 working days of the closing date, beginning with the day after the date the application is made i.e. by Tuesday 15 July 2014.
- display a notice at the premises for at least 28 consecutive days, beginning on the date the application is made i.e. from Tuesday 1 July 2014.

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<sup>12</sup> Section 159 Gambling Act 2005.

<sup>13</sup> Section 204 Gambling Act 2005.

<sup>14</sup> Sections 159-160 Gambling Act 2005.

<sup>15</sup> Regulation 7(3), Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008.

- The last date for representations to be specified in notices to responsible authorities, advertisements and site notices is 28 days after the closing date.

4.8 Representations may be made on the application by responsible authorities and interested parties, as defined by the Act.<sup>16</sup> For this purpose, each competing applicant for the casino premises licence is an interested party and so can make representations in relation to each of the competing applications.<sup>17</sup> The period for representations is 28 days beginning on the closing date. If the Authority considers a representation to be vexatious, frivolous or certainly not such as to influence its determination of the application, it will disregard it.<sup>18</sup>

4.9 Unless the applicant and also interested parties or responsible authorities consent to a determination without a hearing, the Authority must hold a hearing to consider each application if:

- a) there remain live representations from interested parties or responsible authorities;
- b) the Authority proposes to attach an individual condition to the premises licence;
- c) the Authority proposes to exclude a default condition from the licence.<sup>19</sup>

4.10 In considering the merits of the application at Stage 1, the Authority will apply the test set out in section 153 of the Gambling Act 2005. In particular, the Authority will aim to permit the use of premises for gambling insofar as the Authority think it is:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;<sup>20</sup>
- (b) in accordance with any relevant Guidance issued by the Gambling Commission;<sup>21</sup>
- (c) reasonably consistent with the licensing objectives<sup>22</sup> (subject to paragraphs (a) and (b)), and

<sup>16</sup> Sections 157, 158, 161 Gambling Act 2005.

<sup>17</sup> Schedule 9 paragraph 4, Gambling Act 2005.

<sup>18</sup> Section 162 Gambling Act 2005.

<sup>19</sup> Section 162 Gambling Act 2005.

<sup>20</sup> Under section 24 of the Gambling Act 2005. The current codes of practice are obtainable from the Commission's web-site: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

<sup>21</sup> Under section 25 of the Gambling Act 2005. The current Guidance is obtainable from the Commission's web-site: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

<sup>22</sup> The licensing objectives are: (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, (b) ensuring

- (d) in accordance with the statement published by the Authority under section 349<sup>23</sup> (subject to paragraphs (a) – (c)).

In making its determination, the Authority must disregard:

- (1) the expected demand for the proposed facilities;<sup>24</sup>
- (2) whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building.<sup>25</sup>

4.11 The determination at Stage 1 will be made by the Authority's Licensing Committee ('the Licensing Committee'). Any hearing will be conducted in accordance with the appropriate hearings regulations.<sup>26</sup>

4.12 Following the Stage 1 procedure, if there is only one successful applicant, a casino premises licence (or provisional statement as the case may be) will be awarded to that applicant. If there is more than one successful applicant, then all of the successful applicants will be invited to participate in Stage 2 of the competition.<sup>27</sup>

4.13 There is a right of appeal against the Authority's decision at Stage 1 of the process. Pending completion of the appeal, Stage 2 of the competition will be suspended.<sup>28</sup>

#### **Extraneous information or material**

4.14 It is important to note that the only information the Authority can take into account at Stage 1 is information material to the judgment it has to make under section 153 of the Gambling Act 2005. Therefore:

- 1) no information, other than information required by the Application Regulations, may be included in or submitted with an application.<sup>29</sup>
- 2) in making its determination at Stage 1, the Authority will not take into account any information which is relevant to a

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that gambling is conducted in a fair and open way, and (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

<sup>23</sup> The Authority's Statement of Principles is obtainable from the Authority's web-site: [www.southampton.gov.uk](http://www.southampton.gov.uk).

<sup>24</sup> Section 153 Gambling Act 2005.

<sup>25</sup> Section 210 Gambling Act 2005.

<sup>26</sup> Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (SI 2007/173).

<sup>27</sup> Schedule 9, Gambling Act 2005.

<sup>28</sup> Schedule 9, Gambling Act 2005.

<sup>29</sup> Regulation 6, the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 (SI 2008/469) ("the Invitation Regulations).

determination at Stage 2, unless that information is also relevant to the determination at Stage 1.<sup>30</sup>

- 3) if extraneous information or material is included with the application, the Authority will disregard it and, if possible, return it to the applicant.<sup>31</sup>
- 4) the Authority will not have regard to whether any of the competing applications is more deserving of being granted.<sup>32</sup>

## **5 Stage 2 of the competition**

- 5.1 At Stage 2 of the competition, the Authority will decide which of the remaining applications would be likely to result in the greatest benefit to the Authority's area. To ensure delivery of benefits, the Authority may enter into an agreement with an applicant, whether as to the provision of services or otherwise, and may attach conditions to any licence so as to give effect to the agreement, and may take the agreement into account in judging the competition. A casino premises licence (or provisional statement, as the case may be) will be awarded to the winning applicant.<sup>33</sup>
- 5.2 The decision will be made by the Licensing Committee.
- 5.3 In general, the procedure will follow the Competition Code of Practice.<sup>34</sup> However, the Code leaves individual authorities to determine the detail of their own procedure. The procedure which follows has been determined by the Authority to ensure fairness, equality between applicants and transparency; and also to secure maximum benefits from this process for the area of the Authority.
- 5.4 At the beginning of Stage 2, applicants will be invited to complete a form demonstrating how their application, if granted, would be likely to result in the greatest benefit to the authority's area.
- 5.5 A copy of the form is included with this Procedure Note, together with Guidance Notes for completion of the form.
- 5.6 Applicants will be required to submit detailed information together with their form, to enable applications to be thoroughly evaluated.

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<sup>30</sup> Ibid.

<sup>31</sup> Paragraph 4, Competition Code of Practice, see note 2 above.

<sup>32</sup> Schedule 9, Gambling Act 2005.

<sup>33</sup> Schedule 9, Gambling Act 2005.

<sup>34</sup> See above.

- 5.7 Attached to the form is a draft Schedule 9 Agreement, which is intended to be entered into in respect of the benefits offered by the applicant and to ensure that applications are judged on an equal basis. Applicants are invited to complete the annexes to the agreement detailing the benefits they are offering should they be awarded the casino licence; together with the compensation they are offering should the casino development be delayed or the benefits fail to materialise in full or cease over the period of the Premises Licence. The agreement is likely to be made a condition of the licence, so that any breach of the agreement will also be subject to remedies under the Gambling Act 2005. While it is not obligatory for applicants to offer to enter into the agreement, this is likely to affect the evaluation of the benefits arising to the Authority from the application.
- 5.8 The form will need to be returned to the Authority by the specified closing date for receipt of information relating to Stage 2 as per the timescale set out at Section 9 of this note.
- 5.9 In determining which application is likely to result in the greatest benefit to the area, the applications will be considered against the Principles and Criteria as set out in the attached Evaluation Criteria and Scoring Matrix document.
- 5.10 Under each of the Lead Criteria set out in the Evaluation Criteria Applicants are encouraged to provide as much detail of the benefits proposed so as to support their proposals.

### **The Advisory Panel**

- 5.11 The Authority will constitute a non-statutory panel named the Advisory Panel (the panel). The panel will comprise of the Chair and individuals with expertise relevant to the various evaluation criteria.
- 5.12 Prior to the commencement of Stage 2, the Authority will publish a document titled Members of the Advisory Panel and this will set out the constitution of the Panel. If any objection is taken to the membership of the Advisory Panel, the substance of the objection should be stated prior to submission of the Stage 2 application, so that the objection may be considered, and any necessary action taken.
- 5.13 The function of the Advisory Panel is to evaluate the applications the Authority receives at Stage 2 for the benefit of the Licensing Committee. The Advisory Panel is not a decision-making body, and while the Licensing Committee will take the Panel's evaluations into account, it is not bound to follow them.

- 5.14 All submitted Stage 2 applications will be placed before the Advisory Panel.
- 5.15 The Panel may request officers of the Authority to engage in discussions or negotiations with each Stage 2 applicant with a view to the particulars of their application being refined, supplemented or otherwise altered so as to maximise the benefits to the Authority's area, should the application be granted. If the discussions are with a view to particulars of the application being improved or altered (rather than merely clarified or particularised), the same invitation will be offered to all other applicants to ensure equal treatment. Wherever possible, such discussions will take place in writing to ensure transparency. Where oral discussions occur, these will be fully minuted.
- 5.16 The Panel may elect to interview applicants. If so, all applicants will be interviewed. The purpose of the interview will be to clarify the detail of the application and not be to negotiate with the applicant. All interviews will be minuted.
- 5.17 The applicant will be invited to amend his bid documentation to reflect any clarifications or alterations to the bid arising from the above process. At this stage, any suggested changes going beyond clarifications or amendments which have been agreed will be disregarded.
- 5.18 Following completion of the bid documentation, the Advisory Panel will evaluate each bid in accordance with the Evaluation Criteria document.
- 5.19 The evaluation will consist of an appraisal against each of the criteria in the Evaluation Criteria document. Upon evaluation, the Panel will award a score ranging from 0 – 1000.
- 5.20 The Panel will supply its draft evaluation to the relevant applicant to enable the relevant applicant to correct factual errors or to make representations as to the scoring or evaluation. No new information will be accepted at this stage. Following any reply by the applicant, the Panel will complete its evaluation and forward it together with the applicant's representations to the Licensing Committee for final determination. The score attributed to an application under the financial head of benefit and the total score will not be revealed during this part of the process, as to do so would reveal the size of other applicants offers under that criterion. A copy of the Panel's evaluation will also be sent to the applicant in question. Further representations are not encouraged at this stage, and representations which duplicate previous representations, amount to a merits-based challenge to the Panel's evaluations or provide new information will be rejected.

## **The final determination**

- 5.21 The Licensing Committee will be drawn from the Members named in the attached document Members of the Licensing Committee, which will be updated prior to the commencement of Stage 2 to reflect any changes in the composition of the Committee at that time. If any objection is taken to these Members, the substance of the objection should be stated prior to submission of the Stage 2 application, so that the objection may be considered, and any necessary action taken.
- 5.22 In each case, the Licensing Committee will be provided with this application pack, the Stage 1 decision, the Stage 2 application form and associated documents (with any amendments), all correspondence and minutes, and the Advisory Panel's draft and final evaluations together with the applicant's representations.
- 5.23 The Committee will evaluate the respective merits of the applications in accordance with the Evaluation Criteria document.
- 5.24 The Committee is unlikely to interview applicants or seek further evidence or representations. If, in an exceptional case, it decides to do so, the same facility will be offered to all applicants to ensure equality of treatment. It will take any legal advice it requires. The legal adviser will play no part in judging the applications or making the decision.
- 5.25 The casino licence or provisional statement will be offered to the highest ranked applicant at Stage 2, subject to completion of any Schedule 9 agreement. If the agreement is not completed, the Authority reserves the right to award the licence or provisional statement to the next-ranked applicant.

## **6 Confidentiality**

- 6.1 All information submitted to the Authority at any time during Stage 2, including in the form itself and associated documents, will be treated as confidential. The Authority has put in place a protocol governing the storage of such confidential information so as to maintain confidentiality. The Authority will not, during the second stage, discuss the details of a person's application with competing applicants without the person's permission.

## **7 Pre-existing contracts, arrangements and relationships**

- 7.1 Southampton City Council intends to enter into a development agreement with partners for the Royal Pier development and a casino element may be part of this with an application for a large casino premises licence forthcoming in relation to the



site. This information is set out here so as to ensure that potential applicants are aware of this likelihood and as a consequence, there can be no reason for the procedure to be unfair in any way or perceived to be unfair by any applicant.

7.2 The Authority will ensure that any pre-existing contract, arrangement or other relationship with any person does not affect the procedure so as to make it unfair, or appear unfair, to any applicant. Accordingly:

- (1) In determining the principles which it proposes to apply at Stage 2, the Authority has disregarded any such contract, arrangement or relationship.
- (2) Before publishing the invitation to apply for the casino licence, it put in place arrangements to ensure that any such contract, arrangement or relationship did not (actually or apparently) prejudice its ability to conduct the procedure fairly.
- (3) After the last date for applications, but before considering any application, it will prepare a register of interests disclosing its interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant.<sup>35</sup> A copy of the information in the register of interests will be provided free of charge to each applicant and to any other person who requests it.

## 8 Communications

8.1 In order to ensure a proper record of communications, there will be a single point of contact for applicants wishing to communicate with the Authority. This is:

Large Casino Licence  
Licensing Team  
Southampton & Eastleigh Licensing Partnership  
PO Box 1767  
Southampton SO18 9LA

Email: [casino@southampton.gov.uk](mailto:casino@southampton.gov.uk)

8.2 Applicants may not contact Advisory Panel Members or Licensing Committee Members. All communications between the Authority and the applicant during the competition process must be channelled in writing through the single point of contact. Oral communication from the applicant will be rejected. Where, in accordance with the above procedure, it is necessary for a meeting to take place, this will be arranged by the authority in advance and will be fully minuted.

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<sup>35</sup> For the meaning of "connected" and "associated", see Competition Code, paragraph 3.5.

8.3 The Authority will update the website with relevant information for applicants from time to time. The Authority reserves the right to place on its FAQ section of the website any questions or issues raised by applicants which it considers pertinent to the competition process.

## **9 Provisional timetable**

The provisional timetable is as follows:

1 April 2014:	Start of Stage 1
1 July 2014:	Closing Date for Stage 1 applications
1 Sept 2014:	Decision at Stage 1
6 Oct 2014:	Invitation to participate in Stage 2 (subject to any Appeals).
6 Jan 2015:	Closing date for submission of Stage 2 applications.
March 2015:	Draft recommendation of Advisory Panel issued.
April/May 2015:	Decision of Authority at Stage 2 and award of casino licence / provisional statement.

## **10 Terms of reference of licensing committee and advisory panel**

10.1A copy of the Terms of Reference for the Committee and the Advisory Panel is attached. Any query as to the Terms of Reference or the proposed procedure, including any query as to its validity, should be directed to the Authority prior to the commencement of the competition so as to resolve the same prior to commencement.