

| | | | |
|-------------------------------|--|--------------------------------------|---------------------------|
| DECISION-MAKER: | LICENSING COMMITTEE | | |
| SUBJECT: | GAMBLING ACT 2005 - APPLICATION FOR A LARGE CASINO PROVISIONAL STATEMENT BY KYMEIRA CASINO LTD AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT | | |
| DATE OF DECISION: | 4 SEPTEMBER 2014 | | |
| REPORT OF: | HEAD OF LEGAL AND DEMOCRATIC SERVICES | | |
| <u>CONTACT DETAILS</u> | | | |
| AUTHOR: | Name: | Martin Grout | Tel: 023 8083 3002 |
| | E-mail: | casino@southampton.gov.uk | |
| Director | Name: | Mark Heath | Tel: 023 8083 2371 |
| | E-mail: | mark.heath@southampton.gov.uk | |

| |
|-------------------------------------|
| STATEMENT OF CONFIDENTIALITY |
| None |

BRIEF SUMMARY

The Licensing Committee is requested to consider and determine an application made by Kymeira Casino Ltd for the grant of a provisional statement in respect of a large casino licence for new premises that will be part of the proposed new development at Royal Pier.

Under the Gambling Act 2005 and the Regulations made under it, this is Stage 1 of the application process. At Stage 1 the Licensing Authority may grant the application for a provisional statement, or reject it. Any decision to grant the application will have effect as a provisional decision to grant, pending Stage 2 of the process.

RECOMMENDATION:

- (i) that the Committee consider this report and the supporting information provided by the Applicant; and
- (ii) determine the application Kymeira Casino Ltd for the grant of a provisional statement as stated in the application form in respect of a Large Casino Licence for a proposed large casino to be at the proposed Royal Pier development on a site bounded by Town Quay (road), Town Quay (pier) to the east, Mayflower Park to the west and the River Test.

REASONS FOR REPORT RECOMMENDATIONS

1. The Council was awarded the Large Casino Licence in 2008 and is now in a position to issue it to a successful applicant. We have made no secret of the desire to locate the new Casino within the proposed development at Royal Pier but that other venues will be considered accordingly. This application is for a Large Casino to be established at the Council's preferred location.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. None

DETAIL (Including consultation carried out)

3. Copies of the application form, notice of application and supporting information are attached as Appendix 1, the indicative site and location plans accompanying the application as Appendix 2 and the representations received to the application as Appendix 3.
4. Representations to the application have been received from:
 - Southampton Commons and Parks Protection Society
 - City of Southampton Society
 - Friends of Town Quay Park
 - Hampshire Constabulary
 - Southampton City Council as Responsible Authority
5. Under section 204 of the Gambling Act 2005 an applicant may apply for a provisional statement in respect of premises that are expected to be constructed or altered or the applicant expects to acquire a right to occupy. Once a provisional statement has been issued, the applicant can then apply for a licence at a later date.
6. The applicant has requested exemption from the requirements of the default condition for casino licences under the Gambling Act 2005 that no facilities for gambling shall be provided on the premises between 06:00 and midnight on any day. The request for this default condition to be disapplied is set out in part 4 of the application form.
7. The applicant seeks a licence to operate between 00:00 and 23:59 on Mondays to Sundays inclusive.
8. The process requires the applicant to display a notice on the site and publish an advertisement detailing the application in a local newspaper. This has been complied with.
9. Copies of the applications and the accompanying documents information was made available on the City Council's web site following its receipt.
10. A large casino must have a minimum of 1500 m² of total customer area and is permitted a maximum of 150 gaming machines in categories B1, B2, B3, B4, C and D (subject to a maximum 5:1 machine to table ratio) with a maximum jackpot of £4,000 for category B1 machines.
11. The issue of one provisional statement for a Large Casino Licence is governed by a competition procedure which is governed by paragraphs 4 & 5 to schedule 9 of the Gambling Act. The opportunity to apply at Stage 1 of the process commenced on 1st April 2014 with a closing date of 1st July 2014.
12. Stage 1 of the competition procedure is regulatory – at stage 1 the licensing authority may not:
 - take into account any matters which they would not ordinarily take into account in determining an application for a licence or

have regard to whether any of the competing applications is more deserving of being granted other than at stage 1 of the process

- have regard to the expected demand for the facilities which it is proposed to provide,
 - take into account whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building
13. At stage 1, the licensing authority may either make a decision to grant a provisional statement or reject the application.
14. Where they have been received, representations from responsible authorities and interested parties are contained in Appendix 3 to the report.
15. The committee must first consider whether a representation has come from an interested party and, if it does, determine its relevance to the application.
16. Paragraph 5.28 of the 4th edition of the Gambling Commission's "Guidance to licensing authorities" (December 2012) states:
- "In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met.

Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In determining this application, the Licensing Committee must, having regard to the representations received, either grant the application in full or take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:-

- modifying the licence conditions volunteered by the applicant in the operating schedule, by altering or omitting or adding to them
 - rejecting the whole or part of the application
17. At the time of writing the report the Licensing Service intend to have a dialogue with the parties that have submitted representations as some of the issues they have raised are essentially matters that can only be considered at Stage 2 of the process whilst some of their observations are matters that, in accordance with paragraph 17 above, must be disregarded. However there are issues raised that could be considered at this stage.

A verbal update will be provided at the meeting.

RESOURCE IMPLICATIONS

Capital/Revenue

18. None.

Property/Other

19. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

20. The Gambling Act 2005 and associated regulations.
21. The council, as licensing authority, was awarded permission to grant one large casino premises licence in its area in May 2008 (under The Gambling (Geographical Distribution of Casino Premises Licences) Order 2008). The regulations provide that no more than one such licence issued by a licensing authority may have effect at any time.

Other Legal Implications:

22. The statutory licensing objectives (section 1, Gambling Act 2005) are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
23. Under the provisions of section 153 of the Gambling Act 2005, in making decisions the licensing authority shall aim to permit the use of premises for gambling, insofar as the licensing authority thinks it is:
 - (a) in accordance with any relevant code of practice issued by the Gambling Commission
 - (b) in accordance with any relevant guidance issued by the Gambling Commission
 - (c) reasonably consistent with the licensing objectives (subject to (i) and (ii) above), and
 - (d) in accordance with Southampton City Council's Statement of Gambling Licensing Policy (subject to (a) and (c) above).

POLICY FRAMEWORK IMPLICATIONS

24. The matters contained in this report are consistent with the policy framework.

KEY DECISION? No

| | |
|-----------------------------|---------|
| WARDS/COMMUNITIES AFFECTED: | Bargate |
|-----------------------------|---------|

SUPPORTING DOCUMENTATION

Appendices

| | |
|----|--|
| 1. | Application for a large casino provisional statement, notice of application and supporting information |
| 2. | Indicative site and location plans accompanying the application |
| 3. | Representations to the application |

Documents In Members' Rooms

| | |
|----|------|
| 1. | None |
|----|------|

Equality Impact Assessment

| | |
|--|----|
| Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out. | No |
|--|----|

Other Background documents available for inspection at:

| 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. | Southampton City Council's Gambling Statement of Licensing Principles (1 January 2013) | |
|----|--|--|