

# Licensing Committee

Friday, 25th October, 2019  
at 10.00 am

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

This meeting is open to the public

## **Members**

Councillor Mrs Blatchford (Chair)  
Councillor G Galton  
Councillor B Harris  
Councillor Kataria  
Councillor McEwing  
Councillor Noon  
Councillor Prior  
Councillor Renyard  
Councillor Spicer  
Councillor Streets

## **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.

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

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

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**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 2019/20:**

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

### **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.

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

### **4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 2)

To approve and sign as a correct record the Minutes of the meeting held on 24 July 2019 and to deal with any matters arising.

### **5 EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

At a predetermined point during the consideration of all items the Sub-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 the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

### **6 APPLICATION TO EXTEND THE PERIOD OF A PROVISIONAL STATEMENT FOR A LARGE CASINO** (Pages 3 - 66)

Report of Service Director, Transactions and Universal Services detailing an application by Aspers Universal Limited to extend the period of a Provisional Statement for a large casino granted to them under the Gambling Act 2005

Thursday, 17 October 2019

Service Director - Transactions and Universal  
Services

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SOUTHAMPTON CITY COUNCIL  
LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 24 JULY 2019

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Present: Councillors Blatchford (Chair), Bunday, G Galton, B Harris, Kataria, McEwing, Renyard and Streets

Apologies: Councillors Noon, Prior and Spicer

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

Apologies were received from Councillors Noon, Prior and Spicer.

The Panel noted the resignation of Councillor Noon and the appointment of Councillor Bunday in place thereof in accordance with the provisions of Council Procedure Rule 4.3.

2. **ELECTION OF VICE-CHAIR**

**RESOLVED** that Councillor McEwing be appointed as Vice-Chair for the 2019/20 Municipal Year.

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

**RESOLVED** that the minutes of the meeting held on 5 December 2018 be approved and signed as a correct record.

4. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

**RESOLVED** that 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 the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Committee would be announced.

5. **CHANGE OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS – CLEAN AIR**

The Committee considered the report of the Service Director – Transactions and Universal Services detailing proposed changes to vehicle conditions following the Special Cabinet Meeting on 22 January 2019 to deliver compliance with the EU limit for nitrogen dioxide.

Representatives of the Taxi Trade were in attendance and with the consent of the Chair addressed the meeting.

**RESOLVED**

- (i) That conditions to the Hackney Carriage Vehicle Conditions to restrict and then end the use of Euro 5 category diesel engine vehicles be approved; and
- (ii) That conditions to the Private Hire Vehicle Conditions to restrict and then end the use of Euro 5 category diesel engine vehicles be approved.

6. **SAFEGUARDING TRAINING FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

The Committee considered the report of the Service Director Transactions and Universal Services seeking the adoption of a policy requiring all Hackney Carriage and Private Hire Drivers to undertake approved Safeguarding Training every three years.

Representatives of the Taxi Trade were in attendance and with the consent of the Chair addressed the meeting.

**RESOLVED**

- (i) That amendments to both the Hackney Carriage Driver's policy and the Private Hire Driver's policy requiring drivers to undertake approved in person Safeguarding training every three years be approved; and
- (ii) That a transition period for existing drivers be approved.

7. **POLICY TO DETERMINE THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADES**

The Committee considered the report of the Service Director Transactions and Universal Services proposing a new policy to assist in applying the fit and proper person test with regards to Licenses issued under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Representatives of the Taxi Trade were in attendance and with the consent of the Chair addressed the meeting.

**RESOLVED** that the policy as shown in Appendix 1 of the report to replace the present Policy relating to the fitness and propriety of applicants and licence holders be approved with the exception of Paragraph 4.42 which be replaced with:-

"A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 9 or more points on their DVLA licence for minor traffic or similar offences the applicant will be required to undertake driver assessment training as approved by the Council. Where an applicant has or reaches 12 points on their DVLA licence for minor traffic or similar offences a licence will not be granted until the applicant/licence holder is conviction free for at least one year and at least 3 months after the end of any driving ban imposed by the courts and after passing an approved driver assessment".



# Agenda Item 6

<b>DECISION-MAKER:</b>	<b>LICENSING COMMITTEE</b>		
<b>SUBJECT:</b>	<b>EXTENSION TO THE PERIOD OF A PROVISIONAL STATEMENT FOR A LARGE CASINO</b>		
<b>DATE OF DECISION:</b>	<b>25 OCTOBER 2019</b>		
<b>REPORT OF:</b>	<b>SERVICE DIRECTOR - TRANSACTIONS AND UNIVERSAL SERVICES</b>		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>PHIL BATES</b>	<b>Tel: 023 8083 3523</b>
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<b>Director</b>	<b>Name:</b>	<b>MITCH SANDERS</b>	<b>Tel: 023 8083 3613</b>
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<b>STATEMENT OF CONFIDENTIALITY</b>	
None	
<b>BRIEF SUMMARY</b>	
The Licensing Committee is requested to consider and determine a request to extend the period of a provisional statement for a Large Casino granted to Aspers Universal Limited in respect of Royal Pier Waterfront Development, Mayflower Park, Southampton.	
<b>RECOMMENDATIONS:</b>	
<b>(i)</b>	That the Committee consider Aspers Universal Ltd.'s request for an extension to the period of the provisional statement, the contents of this report, as well as any relevant representations.
<b>(ii)</b>	That the Committee determine whether to grant or refuse the extension request.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	The determination of requests to extend provisional statements is not delegated to Officers, therefore it is for the Committee to consider and determine the request.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2.	None
<b>DETAIL (Including consultation carried out)</b>	
3.	The Gambling Act 2005 provided the Council with the opportunity to grant a Large Casino Premises Licence. In accordance with the Act the process for determining the large casino licence was followed and on 22 <sup>nd</sup> March 2016 the Licensing Committee granted a provisional statement for a Large Casino to Aspers Universal Limited which was to be developed at the site of Royal Pier Waterfront Development, Mayflower Park, Southampton, SO14 2AQ

	(Minutes of this meeting can be found in <b>Appendix 1</b> ).
4.	The provisional statement was granted on 24 <sup>th</sup> March 2016 and in accordance with Schedule 9 paragraph 10(3) of the Gambling Act 2005, the period of the provisional statement was for three years, with the statement ceasing to have effect on 24 <sup>th</sup> March 2019 ( <b>Appendix 2</b> ).
5.	A letter requesting an extension to the three year duration of the provisional statement was received on 27 <sup>th</sup> March 2019 ( <b>Appendix 3</b> ). This detailed that construction of the large casino had not yet commenced due to circumstances beyond Aspers' control, mainly that the reclamation of the land upon which to build had not commenced.
6.	Schedule 9 paragraph 10(4) of the Gambling Act 2005 provides that a Licensing Authority may extend the period of a provisional statement and after seeking legal advice, a letter was sent by Phil Bates, Licensing Manager to Aspers on 17 <sup>th</sup> April 2019. This letter requested further information on what had occurred since the grant of the provisional statement, any current activities, the intended position of the project at the end of any extension period, the period of extension and a time line of project landmarks to the conclusion of the project ( <b>Appendix 4</b> ).
7.	On 7 <sup>th</sup> May 2019 a letter was received from Aspers ( <b>Appendix 5</b> ). This gave additional information for the reasons for the extension request and emphasising their commitment to the venture. The letter outlined difficulties with the funding of the project to develop the Royal Pier Waterfront and the recent communications with all parties involved in the development project.
8.	The Gambling Act 2005 contains no procedure for a provisional statement extension application, however given that the grant of the provisional statement for a large casino was a competitive process and a matter of public interest, it was deemed appropriate for there to be a 28 day consultation period. On 16 <sup>th</sup> August 2019 the responsible authorities and those who competed in the previous competition for the grant of a large casino provisional statement were advised of the extension request and public notices were placed around the site at Mayflower Park. A copy of the public notice was also placed in a local newspaper on 19 <sup>th</sup> August 2019 ( <b>Appendix 6</b> ).
9.	On 13 <sup>th</sup> September 2019 correspondence was received on behalf of Genting Casinos UK Limited, a party to the previous competitive process for the grant of the provisional statement. Although they did not raise any objection to the extension request, they did state that if Aspers' application was not granted, they wished for the competitive process to grant a new Provisional Statement or Premises Licence for a Large Casino to re-start ( <b>Appendix 7</b> ).
10.	The consultation period was extended until 27 <sup>th</sup> September 2019 to give sufficient time to local neighbourhood groups to consider Aspers' further information relating to their extension request.
11.	On 13 <sup>th</sup> September 2019 a representation from Ms. Ros Cassy on behalf of Old Town Community Forum was received. Additional information was received on behalf of Old Town Community Forum on 19 <sup>th</sup> September 2019 ( <b>Appendix 8</b> ).

12.	On 20 <sup>th</sup> September 2019 a representation from Mr. Graham Linecar on behalf of Southampton Common and Parks Protection Society was received ( <b>Appendix 9</b> ).
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
13.	N/A
<b><u>Property/Other</u></b>	
14.	N/A
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
15.	Schedule 9 of The Gambling Act 2005
<b><u>Other Legal Implications:</u></b>	
16.	<i>Crime and Disorder Act 1998</i> Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
17.	<i>Human Rights Act 1998</i> The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of Proportionality – the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.
18.	<i>Equality Act 2010</i> Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. It also requires the Council to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This means having due regard to the need to removing or minimising disadvantages suffered, taking steps to meet the needs of persons, encouraging persons to participate in public life, tackling prejudice and promoting understanding. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.
<b>RISK MANAGEMENT IMPLICATIONS</b>	

19.	In making decisions Committees should act in accordance with relevant legislation, reasonably and in good faith. The decision could be the subject of judicial review proceedings or statutory appeal.
20.	The original application was linked to development agreements for the Royal Pier Waterfront. These have since been terminated. Any determination is likely to influence future development within the city and as such may have a financial impact for the city.
21.	There is no service delivery risk.
22.	Reputational risk is medium. This is one of 8 large licences created by the Gambling Act 2005. Interest in the decision is likely to attract attention from a wide area outside of Southampton. There are no regulations to govern this process so there is a risk of challenge, however we have taken advice on the process and taken reasonable steps to ensure a fair process following the principles of the Gambling Act 2005.
23.	Overall I consider this to be a low risk.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
24.	The decision to determine the application in the manner set out in this report is not contrary to the Council's policy framework.

<b>KEY DECISION?</b>	<b>No</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>Bargate</b>
<u>SUPPORTING DOCUMENTATION</u>	
<b>Appendices</b>	
1.	<b>Southampton City Council Licensing Committee – Minutes of the Meeting held on 22<sup>nd</sup> March 2016.</b>
2.	<b>Provisional Statement granted 24<sup>th</sup> March 2016.</b>
3.	<b>Extension request letter received 27<sup>th</sup> March 2019.</b>
4.	<b>Letter to Aspers from Southampton City Council on 17<sup>th</sup> April 2019.</b>
5.	<b>Further information from Aspers received 7<sup>th</sup> May 2019.</b>
6.	<b>Public Notices advertising the extension request.</b>
7.	<b>Genting Correspondence received 13<sup>th</sup> September 2019.</b>
8.	<b>Old Town Community Forum Representations.</b>
9.	<b>Southampton Common and Parks Protection Society Representation</b>

**Documents In Members' Rooms**

1.	<b>None.</b>
2.	

<b>Equality Impact Assessment</b>		
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>		<b>No</b>
<b>Privacy Impact Assessment</b>		
<b>Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.</b>		<b>No</b>
<b>Other Background Documents</b>		
<b>Other Background documents available for inspection at:</b>		
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>	
<b>1.</b>		
<b>2.</b>		

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SOUTHAMPTON CITY COUNCIL  
LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 22 MARCH 2016

Present: Councillors Tucker (Chair), Furnell (Vice-Chair), Galton, Jordan, McEwing, Painton, Parnell and Vassiliou

Apologies: Councillors Spicer

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

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

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

Members stated that the interests declared at the 16 December 2014 and 9<sup>th</sup> and 30<sup>th</sup> April 2015 remained unchanged and thus reaffirmed the following and remained in the meeting during the consideration of the matter:

Councillors Galton, Vassiliou and Painton declared personal interests, in view of Councillor Galton's respective status as being a member of Mint Casino (now Genting) and having previously visited the Genting Casino and being a member of Grosvenor Leisureworld, Councillor Vassiliou's respective status as being a member of Grosvenor Leisureworld and Genting Casino and Councillor Painton's respective status as holding membership of Genting Casino.

Councillor Furnell, Jordan, McEwing and Parnell confirmed they had not visited any casinos.

In addition Councillor Tucker declared a personal interest as having previously attended a launch of Watermark Westquay event held by Hammerson.

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

**RESOLVED** that the minutes of the meeting held on 11<sup>th</sup> November 2015 be approved and signed as a correct record.

13. **EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS INCLUDED IN THE FOLLOWING ITEM**

**RESOLVED** that in accordance with the Council's Constitution, the press and public be excluded from the meeting in respect of the following item based on Categories based on categories 3, 5 and 7a of paragraph 10.4 of the Access to Information Procedure Rules. It is not in the public interest to disclose this because doing so would reveal information which is both commercially sensitive and detrimental to the business affairs of the Council.

14. **GAMBLING ACT 2015 AWARD OF LARGE CASINO LICENCE**

The Committee considered the confidential report of the Service Director, Legal and Governance, in accordance with the Local Government Act 1972 Section 100A(4), requesting that the Licensing Committee determine which of the four applications for the Large Casino Licence provides the 'greatest benefit' to Southampton and which Applicant should be awarded the 'Provisional Statement'.

### **RESOLVED:**

- (i) that the following decisions be approved and notified, as agreed at the meeting, to all applicants in writing after the meeting;
- (ii) the Committee has decided to grant the provisional statement to Aspers, whose quantitative score under the Evaluation Criteria and Scoring Matrix was very significantly above the second placed applicant, and whose bid the Committee qualitatively considered to be head and shoulders above the others; and
- (iii) accordingly, the applications by Global Gaming Ventures (Southampton) Limited, Grosvenor Casinos Limited and Kymeira Casinos Limited are rejected.

## **DECISION**

### **Introduction**

1. This is the decision of the Licensing Committee in relation to the application for a provisional statement for a large casino at Watermark West Quay.
2. The provisional decision to grant the application for a provisional statement, colloquially known as the "Stage 1 grant", was made on 4<sup>th</sup> September 2014. This decision, known as the "Stage 2 decision", is the final decision to grant a provisional statement, following a competition between the Stage 2 entrants, Aspers Universal Limited ("Aspers"), Kymeira Casino Limited ("Kymeira") which applied on the same site at the Royal Pier Waterfront Development), Grosvenor Casinos Limited ("Grosvenor") whose site is at Leisureworld, West Quay, and Global Gaming Ventures (Southampton) Limited ("GGV") which has applied at Watermark West Quay, Southampton.
3. The Committee wishes to thank all participants for the quality of their bids and their responsiveness and co-operation during what has been a long and exhaustive process.
4. Within the bounds of confidentiality, this decision sets out the reasons for the result just stated.

### **The legal test**

5. The overriding legal test set out in Schedule 9 paragraph 5(3)(a) of the Gambling Act 2005 ("the Act") which requires the Committee *"to 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."*
6. In accordance with the Secretary of State's *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* the Council as licensing authority published the principles they proposed to apply in making the Stage 2 determination, which were embodied in the Evaluation Criteria and Scoring Matrix.



7. As well as scoring the proposals according to the scoring mechanism set out in that document, the Committee has also asked itself which of the competing applications would be likely if granted to result in the greatest benefit to the authority's area. This produced the same conclusion. In both cases, the conclusion was unanimous.

#### **Disregards**

8. Section 210 of the Act requires the Committee to disregard whether or not a proposal is likely to be permitted in accordance with the law relating to planning or building. The Committee confirms it has disregarded this consideration.
9. Section 153 of the Act states that the authority may not have regard to the expected demand for the facilities provided under the licence. The Committee is advised that the purpose of this provision was explicitly to reverse the position under previous betting and gaming legislation, under which absence of demand was a statutory criterion or indicator for refusal. Absence of demand is no longer a criterion for refusal, any more than presence of demand is a criterion for grant. The Committee has observed this requirement.
10. Nevertheless, in evaluating the likely benefit of a casino to the area the Committee is not obliged to pretend that there would be no demand. A casino with no visits would produce no benefit, whether in terms of employment, regeneration or direct financial contributions, which are all potentially material considerations mentioned in the Code of Practice nationally and the Evaluation Criteria and Scoring Matrix, which has long since been adopted as the scoring mechanism for this competition. Indeed, each applicant has rightly made reference to such matters in their applications. Each applicant has also made projections of visitation and spend and most have made financial offers related to spend. In most cases, their own projections have been accepted by the Advisory Panel.
11. In accordance with the Terms of Reference for this Competition for this Committee, the Committee has disregarded any pre-existing contract, arrangement or other relationship between the Council and any other person, including any contract for the sale or lease of land or any section 106 agreement.
12. To be explicit, the Committee has disregarded whether Southampton City Council has any interest in the sites involved. It has also disregarded whether Southampton City Council has or may have a corporate view or preference as to the sites the subject of this competition. Amongst the obvious reasons why it has adopted this position is that the Committee would expect the Council corporately to work to bring any site the subject of a grant in this competition to fruition. Specifically, as section 7 of the Procedure Note and also paragraph 15.12 of the Council's Statement of Principles under section 349 of the Act made clear, the Council has an interest in the Royal Pier Development. However, the Committee has not allowed that to influence its thinking as to the outcome of the competition. It has considered each application on its own individual merits. This is in any event made clear by paragraph 15.28 of the Council's Statement of Principles.
13. The Committee has noted some suggestion that the result of this competition has been predetermined or biased towards particular applicants or sites. The suggestion is untrue. The Committee emphasises that it has come to this judging process with an entirely open and neutral mind. It has also appointed an independent and expert advisory Panel to ensure that there is a free-standing, objective evaluation of the merits of the respective schemes.

14. In each case, draft Schedule 9 agreements were placed before the Committee at an advanced stage of drafting. In no case had the agreements been signed. However, in every case, the substantive offer made in the Schedule 9 agreement had long since been finalised. The Committee makes it clear that, while it has taken into account the substantive offer, in no case has the specific state of drafting of the Schedule 9 agreement influenced its decision in any way. Following the Committee's consideration of the applications and the identification of the winner, the Schedule 9 agreement with the winner has been executed prior to this decision being issued.

#### **The Advisory Panel**

15. The casino licensing competition is a unique experience for this Council, indeed for every Council granted the right by Parliament to issue large and small casino licences under the Act. Many of the issues to be considered under the Evaluation Criteria and Scoring Matrix lie well beyond the ordinary day to day work of the Licensing Committee. Accordingly, the Council appointed an expert Advisory Panel to ensure that the issues received independent, objective evaluation.

16. The Panel comprised experts in the fields of regeneration and planning, economic development, finance, problem gambling, public health, the gambling industry, the voluntary sector, public protection and community safety, leisure and legal. The Committee wishes to express its deep appreciation to the Panel for its advice and assistance.

17. The process undertaken by the Panel has included, but has not been limited, to the following:

- July 2015: oral presentation by each application followed by questions and answers.
- August 2015: identical request to each applicants for further information regarding any wider development going beyond the casino itself, the deliverability of the casino and the wider scheme and the mutual influence of the casino and the wider scheme.
- October 2015: requests to applicants for further information on topic of problems gambling.
- November 2015: invitations to provide "best and final offers".
- January 2016: publication of first draft report for comment by applicants.
- March 2016: publication of second draft reports for comment by applicants on scoring mechanisms.
- March 2016: publication of final report together with a supplemental report providing further explanation about the process.

18. It appears to the Committee that this has been a thorough process, conscientiously undertaken by a body with relevant expertise.

19. The Committee has noted some criticism of the Panel's work. As to that, it has found as follows.

20. First, while it is clear that there was some error in presentation of the Panel's work in the first draft report, this error has been rectified and explained. The substantive consideration by the Panel is conspicuously clear. The Committee has not treated the Panel's reports like an examination paper but as a professional evaluation of the bids intended to assist the Committee. The Committee considers that the reports amply fulfil that requirement.

21. Second, while not every comment of every applicant on the first and second draft reports has been incorporated into the final report, the Committee has all of the correspondence and a clear picture of what is being said by each applicant.

- The inclusion or omission of comments by the Panel has made no difference to the consideration of the applications or the outcome of this competition.
22. Third, there has been some complaint of an absence of opportunity to comment on the final report. However, the scoring mechanism adopted by the Panel for Criterion 1 was clearly set out in the second draft report and all applicants were given an opportunity to comment upon the mechanism itself and its application in this case. Most took that opportunity. The published procedures have never included opportunity for a further round of comments following publication of the final report. Furthermore, the publication of the supplemental report appears chiefly to have been for the purpose of explaining the process which was followed, rather than to alter or qualify the substantive evaluations.
  23. Fourth, the Committee has no doubt whatsoever that applicants have been given a full opportunity to make their case as to why they should be considered the party whose scheme is likely to result in the greatest benefit to Southampton and to receive their appropriate score upon application of the Evaluation Criteria and Scoring Matrix. Further, the Committee is fully satisfied that it has sufficient information before it now to make a decision.
  24. It is necessary to say a word about the role of the Advisory Panel.
  25. Paragraph 5.13 of the Procedure Note for this competition states: *“The function of the Advisory Panel is to evaluate the applications 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.”*
  26. The Committee emphasises that the decision it has reached in this case is the Committee’s and the Committee’s alone. While it has taken the Panel’s evaluations into account, it has not considered itself bound to follow them. In order to reach its own conclusions, it has read the applications and other material placed before it, including the applicants’ own critique of the Panel’s draft reports.
  27. In the event, the Committee has agreed with the Panel’s evaluation, its approach to scoring and to the scores accorded. However, the Committee has decided to do this following its own evaluation of the merits of the applications.
- Consideration of individual criteria**
28. The Committee makes some general observations in relation to the three criteria in the Evaluation Criteria and Scoring Matrix, as follows.
  29. *Criterion 1.* The context for Criterion 1 is the legal test under Schedule 9 paragraph 5(3)(a) which requires consideration of what would be likely to result from the grant. In other words, the Committee has to consider the likely causal effects of the grant.
  30. Necessarily, when considering development schemes which have not yet broken ground, the Committee has to consider with some care whether the scheme is likely to materialise, since not all development proposals come to fruition. It must also consider the causal influence of the grant of the casino licence on the wider scheme, since if there is none then the scheme and its benefits will not result from grant of the casino licence.
  31. Of the 1000 points available to be awarded in this process, a full 750 falls under Criterion 1, which is entitled “Regenerative Impact.” This reflects the emphasis placed by the Council on the potential of the casino in terms of regeneration, including physical regeneration and tourism and employment opportunities. This emphasis is also reflected in paragraph 15.28 of the Statement of Principles,

- which refers to the importance placed on the ability of the proposal to deliver large scale physical regeneration and tourism potential.
32. As important as the scope of the aspiration is its deliverability. The Committee has been careful to consider whether the scheme proffered is likely to be delivered, and has specifically considered the range of factors referred to in Criterion 1, including practicability, the applicant's standing and track record of delivery, the contents of the legal agreement and any guarantor offered.
  33. The Committee considers that the scoring mechanism adopted by the Panel to achieve a neutral and objective evaluation of the rival proposals under Criterion 1 is robust, sensible and defensible, as is the method of weighting between the casino itself and the wider schemes of which they form part. The Committee notes that no applicant has made a reasoned criticism of the mechanism and the Committee is content to adopt it.
  34. *Criterion 2.* The Committee notes that this criterion requires applicants to demonstrate their proposals. A mere commitment to excellence, for example, would be likely to score lower than a detailed set of policies and procedures which demonstrate how excellence is to be attained.
  35. *Criterion 3.* This has been evaluated in exactly the same way for each applicant. Applicants who can demonstrate that their proposal will come forward earlier than others' or who have offered sums from an earlier date have received full credit since their payments will be made over a longer period.

## **EVALUATION OF GLOBAL GAMING VENTURES (SOUTHAMPTON) LIMITED'S PROPOSALS**

### *Criterion 1*

The Committee accepts and adopts the description of GGV's proposal, as well as the scoring, in section 9 of the report. The Committee accepts that there is a very high likelihood of what would be a high quality casino being delivered. On the scoring approach adopted by the Panel and now this Committee, that element of the calculation carries one third of the marks under Criterion 1.

The larger part of the marks is awarded against the second part of the calculation, which is concerned with the wider scheme. The wider scheme is, in the Committee's view, bound to be delivered. Indeed Phase 1 of the scheme is in progress already. Phase 2 is a modest proposal, certainly relative to the other schemes in this competition. Further, even on GGV's own case, Phase 2 will be delivered with or without a casino. The only difference is some element of delay in the no-casino world.

The Committee understands that regeneration does not just mean buildings, and that there may be real benefit in a casino going on the Watermark West Quay site. But in what is a competitive exercise, those schemes which offer very large regenerative proposals, bringing into development sites which are previously unused or which amount to redevelopment of large sites, are likely to achieve preference, all other things being equal, over proposals which involve little more than the development of a casino and the benefits attendant upon such a development. Indeed, in the case of GGV the position is still weaker, for if the casino does not occupy the site it seems to be acknowledged that some other use will. Therefore, the amount of benefit likely to result from the grant of a casino licence rather than a refusal appears marginal, and certainly well short of the ambition which underpins the casino licensing process in

Southampton. This was really emphasised at a very early stage in paragraph 15.28 of the Statement of Principles, which the Panel has cited.

For that reason, while GGV would have been well-placed had this been a competition which rode simply on the likelihood of delivery of a casino without more, the dearth of causative influence on the realisation of a wider regeneration scheme leaves GGV a very distant last in the evaluation of Criterion 1.

### *Criterion 2*

The Committee accepts the scoring and reasons of the Advisory Panel under this head. The score of 85 reflects proposals which are creditable without being outstanding or particularly innovative.

### *Criterion 3*

The score has been objectively judged by a mathematical model which has resulted in a score of 70.

## **Conclusion**

GGV's final score of 525 left it last in the competition by a margin of over 400 points.

While it has, in its words, an "oven ready" proposal, that is both its virtue and its downfall. It is a proposal which comes in at the tail end of a scheme which will be delivered with or without a casino. The proposal is uniquely poor in terms of its regenerative potential, which was clearly the main point of the competition under the Evaluation Criteria and Scoring Matrix. A higher financial offer may have closed the gap on the other runners, but even despite GGV's near certainty of delivery in the relatively near future, its financial offer was very significantly less than the best offer.

The Committee takes the clear, unanimous view that the GGV proposal is not likely to result in the greatest benefit to the area of Southampton and must be rejected.

## **EVALUATION OF GROSVENOR CASINOS LIMITED'S PROPOSALS**

### *Criterion 1*

The Committee has noted that there was discussion as to whether the location of the casino could move as between Stages 1 and 2 and agrees that it cannot. It is aware that it is dealing with a proposal under which the casino will be located in its Stage 1 position.

The Committee accepts and adopts the description of Grosvenor's proposal, as well as the scoring, in section 9 of the report. The Committee accepts that there is a very high likelihood of what would be a high quality casino being delivered. On the scoring approach adopted by the Panel and now this Committee, that element of the calculation carries one third of the marks under Criterion 1.

However, Grosvenor has fallen a little short on each of the component elements under the second part of the calculation, which considers the regeneration potential of the wider scheme, the deliverability of the wider scheme and the causative significance of

the casino to the wider scheme. As to the first of these, the regeneration potential of the proposal was scored at 9, being excellent.

However, when it comes to the deliverability of the wider scheme, there are a number of hurdles confronting the proposal. Even if the Council were supportive of the proposal (which for reasons given above the Committee accepts would be the case) there would still be a question of agreeing terms with the Council as landowner, which is a matter of property and not political support and, more importantly, agreement with JLP, about which the Committee is in no position to speculate since it lies entirely outwith Grosvenor's control. There are also a number of other leasehold interests involved as detailed in the Panel's report, as well as needing the appointment of a specialist operator for the extreme sport proposal.

In summary, the Committee agrees with the Panel that delivery of the wider scheme is contingent on a number of events which are outside the control of Grosvenor and its development partners, and there is an absence of evidence that these hurdles will all be surmounted. In the circumstances, the Committee regards the award of 5 marks for deliverability of the wider scheme, representing an assessment that it is "likely, i.e. more than 50%", as rather generous. However, on the basis that the assessment only means "marginally more than 50%" the Committee adopts it.

The Committee also understands that the casino may provide some anchoring, both financial and otherwise, for the wider scheme, the Committee does not consider that there is a demonstrably high degree of dependence of the larger scheme on the casino. It considers that the score of 6 for causative significance is correct.

Standing back from the proposal, while undoubtedly the wider scheme would be an asset to Southampton, it falls short of the scale and import of the Royal Pier scheme, perhaps lacking in some ambition and vision, and perhaps constrained by the site itself. Further, in contradistinction to the Royal Pier scheme, the Grosvenor scheme is to some extent creating replacement capacity rather than new capacity.

But more importantly, the wider scheme at this stage appears to be, at root, a paper scheme, with a very long way to go and a number of obstacles in its way, which may in time be overcome but which are not the subject of present solutions. In reaching that conclusion, the Committee has specifically considered the answers given on these points in its Grosvenor's letter of 22nd September 2015.

Further, the casino, while no doubt providing some impetus for the scheme, is not integral to the scheme in the sense that it is demonstrable that without the casino the scheme will not happen. On this point, Grosvenor stated in their letter that "in their view" the wider scheme would not happen without the casino, but provided no or insufficient justification for the assertion. Indeed, Grosvenor concede that, absent the casino, a "more conservative" scheme would be brought forward, albeit after some further delay. Such a scheme would presumably include the existing casino being remodelled or perhaps even relocated within the site, as is permitted under the Gambling Act 2005. Therefore, the outcome of a refusal would, even on Grosvenor's case, not be "no scheme" or even "no casino."

Accordingly, the Committee endorses the raw score of 292 for Grosvenor under Criterion 1, which scales up to 577 for the reasons which have been explained. As will be appreciated, this is a long way shy of the winning bid's 750 marks.

### *Criterion 2*

The Committee accepts the scoring and reasons of the Advisory Panel under this head. The score of 100 is a highly creditable total awarded to a highly competent and experienced operator. It appears that a few marks may have been lost through the non-submission of a procedure manual, although this is immaterial to the outcome of the competition.

### *Criterion 3*

The score has been objectively judged by a mathematical model which has resulted in a score of 125, the maximum possible.

### **Conclusion**

Grosvenor's score of 577 under Criterion 1, which was the third placed score, left it with far too much ground to make up on the remaining criteria. It did make up some ground on the other competitors on Criteria 2 and 3, so that its composite score of 802 placed it second overall. However, this was a very distant second indeed, being 132 points short of the winner. Even giving Grosvenor the benefit of any doubt could not have brought it within touching distance of the winning bid. In fact, the Committee has reached its conclusion without doubt. It has unanimously decided that Grosvenor's bid is not likely to result in the greatest benefit to the area.

The Committee adds by way of parenthesis that it does appear that some scheme will eventuate on this site, regardless of this decision, and hopes that Grosvenor will be a successful part of it, utilising its existing licence.

However, for the reasons it has given, the application of Grosvenor must be rejected.

## **EVALUATION OF KYMEIRA CASINO LIMITED'S PROPOSAL**

### **Application for adjournment**

The Committee considered the application for adjournment made by Kymeira in a letter dated 21<sup>st</sup> March 2016. The application is rejected.

There is a criticism in the letter that the final report by the Advisory Panel appears to have been redrafted in a hurry as in some respects both the wording and presentation are very poor, to the extent that in some cases sentences don't finish or make proper sense. The Committee has noted that the formatting of the report has meant that there are unnecessary line breaks in some places, and that there has been some transposition of text in certain places. However, the Committee does not consider itself or anyone else disadvantaged by that. The error seems to be one of formatting rather than thought. For example, the passage commencing "2016" on page 19 belongs following the date "11<sup>th</sup> February" further down the page, while the widowed words "level of" on page 25 belong with the orphaned words "risk associated" on page 26.

Kymeira is also concerned that new information has been provided in the final report. However, the actual scoring of Kymeira's bid under Criterion 1 was shown in the second draft report, upon which Kymeira has had the opportunity to comment, and upon which it has in fact commented. The third report contained an upwards revision of its scoring under Criterion 3. The supplemental report chiefly set out some more details

as to the process. The Committee notes that the competition rules do not provide for comments on the final report, and in any case cannot see that Kymeira has been materially disadvantaged by its inability to do so. Kymeira has had the same opportunity to shape its bid and respond to questions as every other party, and the Committee is fully confident that the process has been not only full and fair but equally fair to all participants.

Kymeira has also complained at the inchoate nature of the Schedule 9 agreements. In this respect, all the applicants are in the same boat.

## **Evaluation of Kymeira's proposal**

### *Criterion 1*

The Committee agrees with the way the Panel has scored Kymeira's proposal under this criterion, both as to the total score and the constituent elements in the calculation.

The Committee accepts and adopts the description of Kymeira's proposal in section 9.2 of the Panel's report. It considers that the wider scheme is an ambitious and exciting one for Southampton. It is impressed, as was the Panel, with the track record of delivery of the main players in the wider scheme as set out in section 9.3. It endorses the Panel's decision to take account of the state of progression of the scheme, the level of investment which has already been made to date, the existence of the CLDA and the heads of terms. It also accepts, for the reasons given by the Panel, that the casino licence will in and of itself catalyse the wider development.

The fact that the City Council itself has an interest in the site and the likelihood of planning permission being obtained for the scheme are matters which the Committee disregards for the reasons given above.

The Committee has given close consideration to the likelihood of delivery of the wider scheme. It would be a pointless exercise, a waste of the years spent and funds expended in running the competition and a huge disservice to the people of Southampton to grant the licence for a casino which will not be built and a wider scheme which will never be delivered. It is quite obviously a huge responsibility which the Committee has taken extremely seriously.

A scheme which is merely nascent may appear attractive but lack the sense of planning and progression to enable a finding that it is "likely". A scheme which is practically built out may be certain to be completed but the casino could not claim to be the cause of the wider scheme. In this case, the Committee considers the wider scheme to be apt for the site, backed by credible participants and supported by a sufficient record of progression to enable the Committee to make a judgment about its likelihood of fruition. The Committee is also influenced by the judgment of the Advisory Panel itself which includes experts on the casino industry specifically and wider regeneration initiatives more generally.

A score of 6 for the deliverability of the wider scheme implies that deliverability is "more than likely, i.e. significantly more than 50%". This is more than 5 ("likely, i.e. more than 50") but less than 7 ("very likely"). The Committee considers that this is a fair evaluation of the deliverability of the wider scheme.



The Committee also specifically endorses a score of 10 for the regeneration potential of the scheme and 8 for the causative significance of the casino to the scheme.

In summary, the Committee considered this to be a very impressive scheme, and was particularly impressed with the regeneration aspects of the proposal. It was glad to see the proposal for 730 residential apartments.

Where Kymeira has performed less well is in the specific casino proposal itself. The Committee accepts the Panel's concerns regarding splitting the proposal over two floors, whatever regional precedent may be found, both on a practical and logistical level, and in relation to the trading assumptions on which the proposal is based, which appear not only significantly out of kilter with reasonable expectations for both table gaming and machine gaming (in one case too low and in one far too high), but which give the Committee concern as to the overall viability of the operation. The Committee is seriously concerned at the Panel's finding that the proposition was strategically inconsistent, significantly at variance with industry norms, and lacking a sufficiently cohesive and evidenced rationale.

Linked with this, and in the Committee's view probably the cause of it, is that Kymeira do not have an operator for the casino. That Kymeira do not have a track record of delivering large casinos is perfectly understandable – only two operators nationally do. But Kymeira as a company has no track record of delivering any casino, and cannot present any entity as the operator of their proposed casino. The track record of the operator is of course specifically mentioned in Criterion 1.

The Committee also echoes the Panel's concern that not only is there not an operator on board, but that the contractual model under which an operator would be appointed and the identity of that operator, is not specified. As the Panel also states, this appears to have affected the ability of Kymeira to demonstrate some of the policies and procedures that would normally be expected from an established operator.

The Committee have struggled to understand Kymeira's response to these criticisms, which is essentially that not having an operator is a strength and not a weakness. Even accepting that it has an experienced operational and legal team able to select an operator at the relevant time, it is inherent in the nature of the competition that the Panel and now the Committee will evaluate that which is proposed now. Where, as here, what is proposed lacks credibility in some key respects, it cannot provide an answer to say that credibility will be achieved later.

The Committee is fully in agreement with the Panel, when it states, by way of justification for the score of 4 for the regeneration potential of the casino itself, that the lack of an operator justified the low mark, since it resulted in evidential shortfalls and inaccuracies, and diminution in the Panel's confidence in the proposal.

The Committee gave serious consideration to reducing from 7 the score for deliverability of the casino itself, since the credibility gap in the proposal also affects that score. However, it decided that a sufficient overall deduction had been made under the regeneration score. However, the Committee considers that the two scores combined, 4 and 7, are at the top end of reasonable in the first part of the Criterion 1 calculation. Any variation would necessarily be downwards.

Accordingly, the Committee endorses the raw score of 310 for Kymeira under Criterion 1, which scales up to 612 for the reasons which have been explained. As will be appreciated, this is a long way shy of the winning bid which, Kymeira will appreciate, is by an operator with a genuine track record of delivery of large casinos.

### *Criterion 2*

The Committee accepts the scoring and reasons of the Advisory Panel under this head. The Committee specifically rejects Kymeira's critique of the scoring. It regards as unrealistic Kymeira's case that it would be otiose to provide detailed policies and procedures at this stage. The Statement of Principles itself expects policies and procedures in place. The Evaluation Criteria and Scoring Matrix expressly requires demonstration of what is proposed. A simple commitment to excellence cannot possibly receive the same score as particularised proposals which are demonstrably excellent. Again, this is no doubt a function of Kymeira not actually being a casino operator. It cannot be criticised for that. However, it is not a commendation either. Its proposals must be judged on the evidence, in the same way as any other applicant. If the proposals lack specificity, they may be marked down, as they have been here, in the Committee's view correctly.

### *Criterion 3*

The score has been objectively judged by a mathematical model which has resulted in a score of 65.

## **Conclusion**

Kymeira's score of 612 on Criterion 1 left it with too much ground to make up on the remaining criteria. In fact, however, it came last in the competition on Criteria 2 and 3. Its composite total of 732 was over 200 points shy of the winning total. Therefore, while it came third overall it was a very distant third, and even giving Kymeira the benefit of any doubt could not have brought it within touching distance of the winning bid. In fact, the Committee has reached its conclusion without doubt. It has unanimously decided that Kymeira's bid is not likely to result in the greatest benefit to the area.

By way of parenthesis, the Committee adds that where there are two applicants both chasing the same site on the same footprint in the same wider development, it is not impossible but it is nevertheless counter-intuitive to award the licence to an entity which has not run a casino before over an entity which has experience of developing and opening the very type of casino the subject of the competition. It is noted that Kymeira has provided no guarantor and has offered no liquidated and ascertained damages in relation to the provision of jobs. In the view of the Committee, Kymeira suffers from a credibility gap relative to the eventual winner, which its bid has not managed to close. In short, there is a much greater risk in granting to an applicant which does not have any operator even identified, let alone contracted in, than to an applicant which is itself an experienced operator.

Accordingly, the application of Kymeira must be rejected.

## **EVALUATION OF ASPERS' PROPOSAL**

### *Criterion 1*

The Committee agrees with the way the Panel has scored Aspers' proposal under this criterion, both as to the total score and the constituent elements in the calculation.

The Committee accepts and adopts the description of the Aspers' proposal in section 9.2 of the Panel's report. It considers that the wider scheme is an ambitious and exciting one for Southampton. It also considers that the casino proposal itself is professionally presented, detailed and credible.

So far as deliverability is concerned, it is impressed at Aspers' track record of delivery of large casinos. Of course, it is the only applicant which has delivered a large casino under the Act.

It is also impressed, as was the Panel, with the track record of delivery of the main players in the wider scheme as set out in section 9.3. It endorses the Panel's decision to take account of the state of progression of the scheme, the level of investment which has already been made to date, the existence of the CLDA and the heads of terms. It also accepts, for the reasons given by the Panel, that the casino licence will in and of itself catalyse the wider development.

The fact that the City Council itself has an interest in the site and the likelihood of planning permission being obtained for the scheme are matters which the Committee disregards for the reasons given above.

The Committee has given close consideration to the likelihood of delivery of the wider scheme. It would be a pointless exercise, a waste of the years spent and funds expended in running the competition and a huge disservice to the people of Southampton to grant the licence for a casino which will not be built and a wider scheme which will never be delivered. It is quite obviously a huge responsibility which the Committee has taken extremely seriously.

A scheme which is merely nascent may appear attractive but lack the sense of planning and progression to enable a finding that it is "likely". A scheme which is practically built out may be certain to be completed but the casino could not claim to be the cause of the wider scheme. In this case, the Committee considers the casino and the wider scheme to be apt for the site, attractive, thoroughly presented and justified, backed by credible participants and supported by a sufficient record of progression to enable the Committee to make a judgment about its likelihood of fruition. The Committee is also influenced by the judgment of the Advisory Panel itself which includes experts on the casino industry specifically and wider regeneration initiatives more generally.

A score of 6 for the deliverability of the wider scheme implies that deliverability is "more than likely, i.e. significantly more than 50%". This is more than 5 ("likely, i.e. more than 50") but less than 7 ("very likely"). The Committee considers that this is a fair evaluation of the deliverability of the wider scheme. It also considers that a score of 7 for the deliverability of the casino itself is correct.

The Committee has noted the comment by one rival applicant that there is no realistic prospect of a casino ever being developed at Royal Pier, that the scheme is unbuilt and unfinanced, and the applicant has no lease or other land interest and has apparently made no financial commitment. Of course, were the scheme already built, then the casino could not take credit for its delivery. Were it fully financed and with all relevant land interests disposed of or subject to legal agreements, a greater score than 6 might

have been appropriate. As it is, the Committee is confident that it has judged the questions of deliverability and causative significance of the casino to the wider scheme fairly and accurately.

In summary, the Committee considered this to be a very impressive scheme, and was particularly impressed with the regeneration aspects of the proposal. It was glad to see the proposal for up to 730 residential apartments. It strongly endorses Aspers' proposal in respect of the employment of disadvantaged people. It considered that Aspers' engagement already with Southampton institutions demonstrates not only a real commitment to weave itself into the business, welfare and protective network in Southampton, but a commitment to deliver the scheme itself.

As a minor matter, the Committee considered that the proposed quiet room in the casino is too small for a casino of this size and commitment to achieve excellence in relation to problem gambling. It hopes to see this rectified at a later stage in the process. It has not, however, affected the scoring of the application.

As stated above, the Committee has considered each of the five scores suggested by the Panel in its scoring mechanism under Criterion 1, which result in a raw score of 380 marks. This is the leading mark amongst the four applicants, resulting in a final score under Criterion 1 of 750.

#### *Criterion 2*

The Committee accepts the scoring and reasons of the Advisory Panel under this head.

#### *Criterion 3*

The Committee accepts the scoring and reasons of the Advisory Panel under this head. It is not understood that Aspers has challenged the score in any event.

### **Conclusion**

In conclusion, Aspers is an experienced operator with a track record of delivering large casinos. It is clear that a great deal of thought and commitment has gone into the proposal itself, as well as how it would be delivered. The Committee believes that the energy and commitment that has carried Aspers this far will continue and will help to drive forward the Royal Pier scheme as a whole. The Committee has unanimously reached the view that the Aspers proposal is likely to result in the greatest benefit to Southampton. In the opinion of the Committee it is, as stated above, head and shoulders above the other competitors.

### **Condition of grant**

In accordance with Schedule 9 paragraph 5(3)(a) of the Act, the Committee has determined to add a condition to any licence requiring compliance with the executed Schedule 9 agreement. It directs that the provisional statement shall not be issued until the agreement has been signed and Aspers has signalled assent to such a condition.

In addition, of course, any eventual licence will be subject to the individual conditions added at Stage 1, the statutory conditions and the mandatory conditions. The default conditions were excluded in the Stage 1 decision.

## **Period of grant**

In accordance with Schedule 9 paragraph 10(3) of the Act, the period of the provisional statement shall be three years from the date of this decision. Within that period, the Committee expects Asperts to have applied for a premises licence for the proposal. However, there is provision in Schedule 9 paragraph 10(4) for Asperts to apply for an extension of that period, which would enable it to explain the progress of the scheme. This enables the licensing authority to retain some control over the pace and timing of delivery.

For the reasons given above, and subject to the condition specified, Asperts' application for a provisional statement is granted.

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## NOTICE OF GRANT OF AN APPLICATION FOR A PROVISIONAL STATEMENT

**This Notice is issued in accordance with regulations made under  
Section 164(2) of the Gambling Act 2005**

Southampton City Council,  
Civic Centre, Southampton,  
SO14 7LY

An application for a provisional statement in relation to the following type of premises:

Large Casino

**Is granted to:**

**Aspers Universal Limited**

of the following address:

1 Hans Street, London, SW1X 0JD

the number of whose operating licence is: N/A

The premises or proposed premises to which the application relates are:

To be developed at the site of the  
CASINO LOCATION ZONE  
ROYAL PIER WATERFRONT DEVELOPMENT  
MAYFLOWER PARK  
SOUTHAMPTON  
SO14 2AQ

The provisional statement number is 2014/02548/70SLCP

This Provisional statement ceases to have effect on 24<sup>th</sup> MARCH 2019.

If a premises licence for the type of premises in the provisional statement were to be issued, the licensing authority would attach the conditions set out in **Annex A** to this notice, in exercise of their powers under section 169(1)(a) of the Gambling Act 2005.

If a premises licence for the type of premises specified in the provisional statement were to be issued, the licensing authority would exclude the default conditions set out in **Annex B** to this Notice, in exercise of their powers under Section 169(1)(b) of the Gambling Act 2005.

The licensing authority did receive representations in relation to the application.



The representations received in relation to the application, together with the licensing authority's response, are set out in Annex C to this Notice.

Any correspondence regarding the content of this notice should be directed to the Licensing Manager, Southampton City Council; Civic Centre, Southampton, SO14 7LY

Richard Ivory  
Service Director  
Legal & Governance  
Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY

Dated: 24<sup>th</sup> March 2016



**ANNEX A – CONDITIONS TO BE ATTACHED**

<b>Condition to be attached</b>	<b>Reasons for attaching condition</b>
That any provision of gambling activities shall not be visible from the exterior of the premises.	The promotion of the Licensing Objectives
A 'Challenge 25' scheme that ensures that any person attempting to enter the premises that is, or appears to be, under the age of 25 shall provide documented proof that he/she is over 18 years of age, shall be implemented at the premises. Proof of age identity documents shall only comprise a passport, a photo card driving licence or a proof of age standards scheme (PASS) proof of age identity card or Ministry of Defence identity card.	The promotion of the Licensing Objectives

**ANNEX B – DEFAULT CONDITIONS TO BE EXCLUDED**

<b>Condition to be excluded</b>	<b>Reasons for excluding condition</b>
No facilities for gambling shall be provided on the premises between the hours of 6.00am and noon on any day.	Removal of the default condition will not compromise the licensing objectives.

**ANNEX C**

<b>Representation</b>	<b>Licensing Authority's response</b>
SCAPPS submits that the society should be recognised as representing 'interested parties'. There is no planning permission for	The Licensing Committee considered that the each representation was made by someone

the 'premises' specified by the above applicants for large casino licenses at Royal Pier. The premises do not exist. To create the premises would require a planning permission destroying Mayflower Park, a heavily used & much appreciated public open space, the only green space close to the city centre giving public access to the waterfront. It is heavily used by families with small children. There is no provision within the Gaming Act for such persons, clearly affected by the applications, to make valid representations. SCAPPS asks the Licensing Committee to recognize SCAPPS as validly representing the interests of users of Mayflower Park who will, without doubt, be directly affected by the grant of a large casino license for 'premises' which the applicants are presuming will be granted planning permission. The Gaming Act restricts grounds on which an objection can be made. There is no layout & design for a comprehensive development at Royal Pier but from information available to the public it is understood that the development would include a replacement waterfront park intended to serve the same purpose & be used in a similar way as the existing park. That means it will be heavily used by a wide range of people, & especially by families & young children. SCAPPS objects to a large casino license being granted for premises within the undefined Royal Pier development on the grounds that in the absence of a layout & design there is a considerable & justifiable concern that the applicants cannot provide the necessary & sufficient guarantees that the proximity of gaming premises to a recreation area for children will not expose children using the park (& other users) to risk of harm & exploitation.

SCAPPS biggest objection is however one that the Gaming Act does not recognise. The Royal Pier Waterfront development is a waterfront site, probably the most prestigious & prominent waterfront site in the City. It does not seem to SCAPPS that a large gaming premises is an appropriate use for such a special location. Uses & activities in the Royal Pier development should be ones that take advantage of the waterfront location, of the spectacular views out to the Test & down Southampton Water. Gaming premises are essentially enclosed & 'inward looking', they do not need to occupy & certainly do not benefit from such a spectacular location as the site proposed in these 5 applications.

representing persons likely to be affected by the activities concerned.

The licensing authority considered that the issues raised in the representation were relevant to the matters to be considered by the committee.

The licensing authority considered that the representation was not made purely on moral grounds, having regard to paragraph 5.28 of the Gambling Commission Guidance to Local Authorities Fourth Edition (Issued September 2012).

The Committee takes the view that it cannot or should not take into account planning objections, since these are outside the legal or practical scope of the Gambling Act 2005 and the objectives which it seeks to promote. Furthermore, the Committee is conscious that, if this development is to proceed, it will require planning permission under a process which will consider whether in planning and policy terms the proposed uses are appropriate, together with the environmental impact on residents, visitors and park users. At that stage, it will obviously consider all representations in relation to the planning merits of the proposal.

Furthermore, matters such as nuisance and general amenity are not matters for this Committee, and in any event the Committee is content that such matters will be carefully looked at by its planning colleagues in due course. It does, however, take the view that crime and disorder associated with gambling – which are expressly referred to in the licensing objectives - are properly matters for its consideration and deals with these matters below.

The Committee is unable to consider the ratio of machines to gaming tables because the ratio is fixed by section 172 of the Gambling Act 2005 and section 172(10) precludes any interference on the matter.

Furthermore, the inclusion of a large gaming premises & associated car parking may preclude & deter other more appropriate uses which would have taken full advantage of the water views.

SCAPPS submits that applications for a large casino license at Royal Pier should be refused, & should certainly be refused until such time as a layout & design has been subject to public consultation establishing whether a casino could be incorporated into the development without prejudice to the overall scheme & without resulting in exclusion or deterrence of other more appropriate uses taking full advantage of this prestigious waterfront site & its extensive views.

Graham Linecar

Secretary, Southampton Commons & Parks  
Protection Society

This representation comes from the Friends of Town Quay Park (FTQP), a membership organisation representing the community of people who use Town Quay Park, SO14 2AT and the adjoining Cuckoo Lane Park.

The Park is immediately opposite Town Quay, overlooking the Royal Pier and Mayflower Park. As such we are an interested party with a) the Park being so close to the potential development of a Casino in the area, and, b) we represent people living in the local community who would be affected by the Casino development.

We trust that the Licensing Committee will consider the following matters of concern to FTQP in considering the granting of a Large Casino Premises Licence.

We appreciate that there are limited grounds for comment at the competition phase for granting Large Casino Licence however we are concerned that the issues we list should be fully considered both by the Advisory Panel and the Councillors who make the decision about the "winner" of the competition.

FTQP has been actively involved in the discussions about the City Centre Action Plan (CCAP). There are some specific points in the CCAP which we believe are relevant to the potential development of a Large Casino in the city centre.

"4.69 The Gambling Act 2005 provides the Council with the opportunity to grant a Large Casino Premises Licence. Applicants will be able to apply for this license and the Licensing Committee will consider each application and determine which one, if granted, would bring the greatest benefit to the area.

Whilst the Council's preferred site is Royal Pier, applicants will be able to submit proposals for other sites in the city which will be determined against set criteria. The most important criterion set is the regenerative benefit of the proposal. This is a separate process to the planning process. The inclusion of reference to a possible casino at Royal Pier does not pre-empt the licensing process."

Key points of concern from FTQP:

1. Peace of TQP – a protected Open Space

We refer to definitions of Section 106 – Recreation and Open Spaces and specifically this extract from Annex of PPG17:

ii. urban quality: helping to support regeneration and improving quality of life for communities by providing visually attractive green spaces close to where people live;

iii. promoting health and well-being:

This is what the Friends of Town Quay Park strive to do in protecting and developing the amenities of the park as a quiet public space where people, particularly residents in an increasingly populous area, can relax away from the city bustle. We are part of the regeneration of the area and the provision of essential public space. We are very concerned about how the parks will be affected, particularly late at night, as they borders the QE2 mile – the main north south spine to the city centre and Town Quay which are likely to be widely use by those going to and coming from the waterfront and any casino located within the development.

Safety – crime, noise, disruption on dispersal and the impact on local policing and health services

The Council states on record that it "will deal with risk of increased crime and anti-social behaviour in the vicinity of the building (*the casino*) through the existing procedures of design out crimes, securely designated car parks and linkage to the Council CCTV systems. The casino operator would also have to invest heavily in its own private security measures within and in the vicinity of the building". FTQP have a real concern about drift into the Park as people leave premises in the early hours of the morning and how managing public safety will be achieved in a climate of public service austerity and reducing services.

2. Attitude of any operator granted a license to social responsibility versus commercial gain

FTQP urges the Licensing Committee to consider careful use of gaming machines which are causing so much distress due to high stakes – and to consider that Southampton require the

ratio to be well below the 1:5 limit set by the Gambling Commission.

We also urge the Licensing Committee to seek clear demonstration from applicants that they treat social responsibility on a par with responsibility to their shareholders (as advocated in a speech by Philip Graf, Chairman, Gambling Commission 4.2.14)

Applicants should also be asked to demonstrate (through minutes perhaps) "that owners, boards, audit committees and remuneration committees consider player protection on a par with commercial development or is it relegated to the compliance department or the regulatory affairs director" (Philip Graf, *ibid*)

In the same speech this theme is continued "We (the gambling regulator) are concentrating more and more on how the boards of operators themselves get assurance that their businesses, for example, have effective anti-money laundering and player protection systems in place. How do they know their policies and procedures are actually working? That commercial pressure is not trumping other concerns? How do their social responsibility principles translate into the culture and behaviour of their business? How can they in turn give us, the regulator, the assurance we need that they are ensuring whole-hearted compliance with the licensing objectives?" Will the Licensing Committee ensure that a successful candidate operates to the highest standards expected by the regulator and will they be diligent in monitoring the ongoing operation? We seek specific and detailed assurances on how this will be achieved.

FTQP also urge the Licensing Committee to consider and publicly state how the standards and guidelines reproduced below from the City Centre Action Plan will be fully met in granting any licence for a large casino.

From the CCAP Night Time Economy background paper

To provide further details on policy CLT 14, a briefing paper 'Night Time Economy Guidelines for opening hours relating to Policies CLT 14 & CLT 15' was produced. This sets out guidance to development control officers on recommended opening hours for food and drink uses (A3-A5), other leisure uses (D2) and nightclubs as follows to ensure a consistent approach to decisions:

Licensing decisions are based on four objectives as set out in the Licensing Act; the prevention of crime and disorder; public safety; prevention of public nuisance; and the protection of children from harm.

Large casino:

5.4.1 The Gambling Act provides the opportunity for the City Council to grant a licence for a large casino in Southampton, one of eight large casino licences available throughout the country. A large casino has a combined gaming floor area of between 1,500 sq m and 3,500 sq m (with table gaming covering at least 1,000 sq m). Further criteria are placed on gaming machines, other betting facilities and non-gambling areas.

5.4.2 There is reference to a large casino in two parts of the CCAP. The supporting text to policy 8 (The Night Time Economy) details the license process which precedes the granting of planning permission and considers which application (if there are more than one) brings greatest benefit to the area. As the council's preferred site is Royal Pier, policy AP 24 (Mayflower Park and Royal Pier) includes reference to a large casino as a possible appropriate use within the development site. The policy will be reconsidered as necessary to reflect the progress on the license process. An indicative timescale has been published and a license is expected to be awarded in June 2014.

5.4.3 Table 3 set out latest opening hours in zones and hubs. This applies to all night time uses with the exception of large casinos which are open 24 hours. The opening hours for the Hub at the southern end of Royal Pier includes a specific reference to any large casino licensed at Royal Pier which would be open 24 hours. Policy AP 8 The Night Time Economy (CCAP) The Council will use its planning and licensing functions to promote a night time economy with a range of activities that contribute to a vibrant city centre whilst minimising potential disturbance to nearby residential areas. New uses with extended opening hours (beyond 23.00 hours) will therefore be directed to designated evening zones and late night hubs as shown on the Policies Map.

Proposals for new development and extended opening hours will be subject to restricted opening times as set out in table 3. In evening zones and late night hubs, extended opening hours for food and drink uses (Use Classes A3, A4 and A5) will be supported subject to meeting other policies, particularly those to protect residential amenity and retail areas. Applications for extended opening hours in the Cultural Quarter will be judged on their own merits.

Elsewhere in the city centre proposals for extended opening hours outside the designated late night hubs and evening zones will only be permitted where they would not cause late night noise and disturbance to residents.

Contributions to community safety facilities will be sought from proposals for entertainment venues, including A3, A4, A5, nightclubs or D2 uses which relate to the night-time economy, leisure and tourism facilities.

4.67 There are however challenges in managing people using night clubs, bars and pubs at night in order to reduce the noise and disruption to people living in and close to the city centre (to address potentially negative impacts on health and increased crime raised in the Sustainability Appraisal SA/SEA).

The planning system has an important role in directing such uses to areas of the city centre which are easily accessible, attractive to the entertainment industry and which create minimum noise and nuisance to residents

4.68 The approach in this plan is to direct uses with extended opening hours to designated late night hubs and evening zones. Late night hubs are located away from residential areas and are appropriate for late night uses with opening hours up to 3am including new nightclubs, casinos and other entertainment (D2) uses. Also appropriate in these hubs are food and drink uses (use Classes A3, A4 and A5) with extended opening hours. The late night hubs may also include other uses as part of mixed use schemes, including residential. New residential development in late night hubs should incorporate measures to reduce noise and carefully consider the location of residential units in relation to the late night uses. Where residential development has already taken place, proposals for nightclubs should not be detrimental to those living nearby, for example by causing undue noise and disturbance.

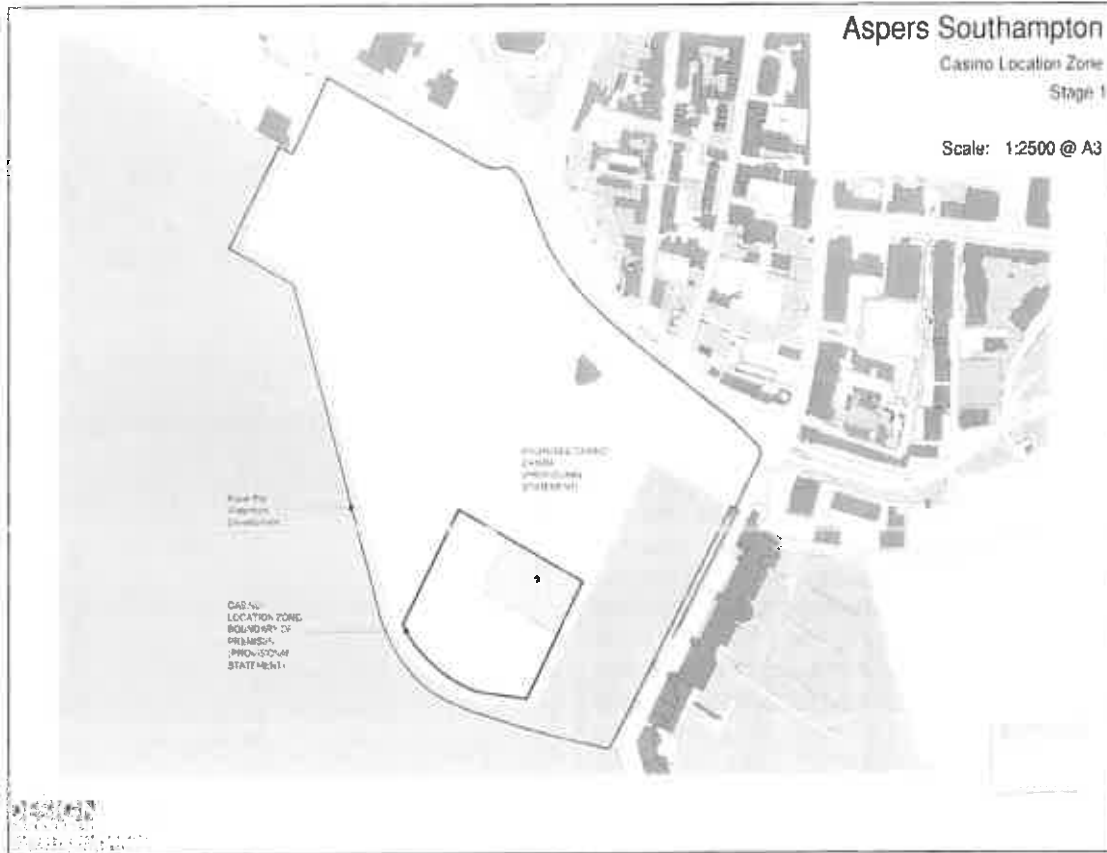
FTQP is very concerned about the impact on the quality of life of local residents and visitors of the 24 hour operation of a large casino and seeks reassurance that the "policing" of the impact will be rigorously undertaken.

We Trust that the Licensing Committee will uphold the standards in the CCAP and consider the interests of Town Quay Park members and local residents in considering the granting of any licence for a large casino.

Ros Cassy, Chair of the Friends of Town Quay Park, [www.friendsoftownquaypark.org.uk](http://www.friendsoftownquaypark.org.uk)

The Planning and Environmental of the City of Southampton Society has considered the response made by SCAPPS and fully concurs with the contents of the letter written by Graham Linacre. We have nothing further to add.

Marian Hubble CoSS









## **DECISION NOTICE**

### **SOUTHAMPTON LICENSING COMMITTEE IN THE MATTER OF THE GAMBLING ACT 2005 AND IN THE MATTER OF THE LARGE CASINO FOR SOUTHAMPTON PROVISIONAL STATEMENT DECISION ASPERS UNIVERSAL LIMITED**

#### **Introduction**

1. This is the decision of the Licensing Committee in relation to the application for a provisional statement for a large casino at the Royal Pier Waterfront Development.
2. The provisional decision to grant the application for a provisional statement, colloquially known as the “Stage 1 grant”, was made on 4<sup>th</sup> September 2014. This decision, known as the “Stage 2 decision”, is the final decision to grant a provisional statement, following a competition between the Stage 2 entrants, Aspers Universal Limited (“Aspers”), Kymeira Casino Limited (“Kymeira”) which applied on the same site at the Royal Pier Waterfront Development), Grosvenor Casinos Limited (“Grosvenor”) whose site is at Leisureworld, West Quay, and Global Gaming Ventures (Southampton) Limited (“GGV”) which has applied at Watermark West Quay, Southampton.
3. The Committee wishes to thank all participants for the quality of their bids and their responsiveness and co-operation during what has been a long and exhaustive process.
4. The Committee has decided to grant the provisional statement to Aspers, whose quantitative score under the Evaluation Criteria and Scoring Matrix was very significantly above the second placed applicant, and whose bid the Committee qualitatively considered to be head and shoulders above the others.
5. Within the bounds of confidentiality, this decision sets out the reasons for the result just stated.



### **The legal test**

6. The overriding legal test set out in Schedule 9 paragraph 5(3)(a) of the Gambling Act 2005 (“the Act”) which requires the Committee *“to 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.”*
7. In accordance with the Secretary of State’s *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* the Council as licensing authority published the principles they proposed to apply in making the Stage 2 determination, which were embodied in the Evaluation Criteria and Scoring Matrix.
8. As well as scoring the proposals according to the scoring mechanism set out in that document, the Committee has also asked itself which of the competing applications would be likely if granted to result in the greatest benefit to the authority’s area. This produced the same conclusion. In both cases, the conclusion was unanimous.

### **Disregards**

9. Section 210 of the Act requires the Committee to disregard whether or not a proposal is likely to be permitted in accordance with the law relating to planning or building. The Committee confirms it has disregarded this consideration.
10. Section 153 of the Act states that the authority may not have regard to the expected demand for the facilities provided under the licence. The Committee is advised that the purpose of this provision was explicitly to reverse the position under previous betting and gaming legislation, under which absence of demand was a statutory criterion or indicator for refusal. Absence of demand is no longer a criterion for refusal, any more than presence of demand is a criterion for grant. The Committee has observed this requirement.
11. Nevertheless, in evaluating the likely benefit of a casino to the area the Committee is not obliged to pretend that there would be no demand. A casino with no visits would produce no benefit, whether in terms of employment, regeneration or direct financial



contributions, which are all potentially material considerations mentioned in the Code of Practice nationally and the Evaluation Criteria and Scoring Matrix, which has long since been adopted as the scoring mechanism for this competition. Indeed, each applicant has rightly made reference to such matters in their applications. Each applicant has also made projections of visitation and spend and most have made financial offers related to spend. In most cases, their own projections have been accepted by the Advisory Panel.

12. In accordance with the Terms of Reference for this Competition for this Committee, the Committee has disregarded any pre-existing contract, arrangement or other relationship between the Council and any other person, including any contract for the sale or lease of land or any section 106 agreement.
13. To be explicit, the Committee has disregarded whether Southampton City Council has any interest in the sites involved. It has also disregarded whether Southampton City Council has or may have a corporate view or preference as to the sites the subject of this competition. Amongst the obvious reasons why it has adopted this position is that the Committee would expect the Council corporately to work to bring any site the subject of a grant in this competition to fruition. Specifically, as section 7 of the Procedure Note and also paragraph 15.12 of the Council's Statement of Principles under section 349 of the Act made clear, the Council has an interest in the Royal Pier Development. However, the Committee has not allowed that to influence its thinking as to the outcome of the competition. It has considered each application on its own individual merits. This is in any event made clear by paragraph 15.28 of the Council's Statement of Principles.
14. The Committee has noted some suggestion that the result of this competition has been predetermined or biased towards particular applicants or sites. The suggestion is untrue. The Committee emphasises that it has come to this judging process with an entirely open and neutral mind. It has also appointed an independent and expert advisory Panel to ensure that there is a free-standing, objective evaluation of the merits of the respective schemes.



15. In each case, draft Schedule 9 agreements were placed before the Committee at an advanced stage of drafting. In no case had the agreements been signed. However, in every case, the substantive offer made in the Schedule 9 agreement had long since been finalised. The Committee makes it clear that, while it has taken into account the substantive offer, in no case has the specific state of drafting of the Schedule 9 agreement influenced its decision in any way. Following the Committee's consideration of the applications and the identification of the winner, the Schedule 9 agreement with the winner has been executed prior to this decision being issued.

### **The Advisory Panel**

16. The casino licensing competition is a unique experience for this Council, indeed for every Council granted the right by Parliament to issue large and small casino licences under the Act. Many of the issues to be considered under the Evaluation Criteria and Scoring Matrix lie well beyond the ordinary day to day work of the Licensing Committee. Accordingly, the Council appointed an expert Advisory Panel to ensure that the issues received independent, objective evaluation.
17. The Panel comprised experts in the fields of regeneration and planning, economic development, finance, problem gambling, public health, the gambling industry, the voluntary sector, public protection and community safety, leisure and legal. The Committee wishes to express its deep appreciation to the Panel for its advice and assistance.
18. The process undertaken by the Panel has included, but has not been limited, to the following:
- July 2015: oral presentation by each application followed by questions and answers.
  - August 2015: identical request to each applicants for further information regarding any wider development going beyond the casino itself, the deliverability of the casino and the wider scheme and the mutual influence of the casino and the wider scheme.



- October 2015: requests to applicants for further information on topic of problems gambling.
  - November 2015: invitations to provide “best and final offers”.
  - January 2016: publication of first draft report for comment by applicants.
  - March 2016: publication of second draft reports for comment by applicants on scoring mechanisms.
  - March 2016: publication of final report together with a supplemental report providing further explanation about the process.
19. It appears to the Committee that this has been a thorough process, conscientiously undertaken by a body with relevant expertise.
20. The Committee has noted some criticism of the Panel’s work. As to that, it has found as follows.
21. First, while it is clear that there was some error in presentation of the Panel’s work in the first draft report, this error has been rectified and explained. The substantive consideration by the Panel is conspicuously clear. The Committee has not treated the Panel’s reports like an examination paper but as a professional evaluation of the bids intended to assist the Committee. The Committee considers that the reports amply fulfil that requirement.
22. Second, while not every comment of every applicant on the first and second draft reports has been incorporated into the final report, the Committee has all of the correspondence and a clear picture of what is being said by each applicant. The inclusion or omission of comments by the Panel has made no difference to the consideration of the applications or the outcome of this competition.
23. Third, there has been some complaint of an absence of opportunity to comment on the final report. However, the scoring mechanism adopted by the Panel for Criterion 1 was clearly set out in the second draft report and all applicants were given an opportunity to comment upon the mechanism itself and its application in this case. Most took that



opportunity. The published procedures have never included opportunity for a further round of comments following publication of the final report. Furthermore, the publication of the supplemental report appears chiefly to have been for the purpose of explaining the process which was followed, rather than to alter or qualify the substantive evaluations.

24. Fourth, the Committee has no doubt whatsoever that applicants have been given a full opportunity to make their case as to why they should be considered the party whose scheme is likely to result in the greatest benefit to Southampton and to receive their appropriate score upon application of the Evaluation Criteria and Scoring Matrix. Further, the Committee is fully satisfied that it has sufficient information before it now to make a decision.

25. It is necessary to say a word about the role of the Advisory Panel.

26. Paragraph 5.13 of the Procedure Note for this competition states: *"The function of the Advisory Panel is to evaluate the applications 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."*

27. The Committee emphasises that the decision it has reached in this case is the Committee's and the Committee's alone. While it has taken the Panel's evaluations into account, it has not considered itself bound to follow them. In order to reach its own conclusions, it has read the applications and other material placed before it, including the applicants' own critique of the Panel's draft reports.

28. In the event, the Committee has agreed with the Panel's evaluation, its approach to scoring and to the scores accorded. However, the Committee has decided to do this following its own evaluation of the merits of the applications.

#### **Consideration of individual criteria**

29. The Committee makes some general observations in relation to the three criteria in the Evaluation Criteria and Scoring Matrix, as follows.



30. *Criterion 1.* The context for Criterion 1 is the legal test under Schedule 9 paragraph 5(3)(a) which requires consideration of what would be likely to result from the grant. In other words, the Committee has to consider the likely causal effects of the grant.
31. Necessarily, when considering development schemes which have not yet broken ground, the Committee has to consider with some care whether the scheme is likely to materialise, since not all development proposals come to fruition. It must also consider the causal influence of the grant of the casino licence on the wider scheme, since if there is none then the scheme and its benefits will not result from grant of the casino licence.
32. Of the 1000 points available to be awarded in this process, a full 750 falls under Criterion 1, which is entitled "Regenerative Impact." This reflects the emphasis placed by the Council on the potential of the casino in terms of regeneration, including physical regeneration and tourism and employment opportunities. This emphasis is also reflected in paragraph 15.28 of the Statement of Principles, which refers to the importance placed on the ability of the proposal to deliver large scale physical regeneration and tourism potential.
33. As important as the scope of the aspiration is its deliverability. The Committee has been careful to consider whether the scheme proffered is likely to be delivered, and has specifically considered the range of factors referred to in Criterion 1, including practicability, the applicant's standing and track record of delivery, the contents of the legal agreement and any guarantor offered.
34. The Committee considers that the scoring mechanism adopted by the Panel to achieve a neutral and objective evaluation of the rival proposals under Criterion 1 is robust, sensible and defensible, as is the method of weighting between the casino itself and the wider schemes of which they form part. The Committee notes that no applicant has made a reasoned criticism of the mechanism and the Committee is content to adopt it.
35. *Criterion 2.* The Committee notes that this criterion requires applicants to demonstrate their proposals. A mere commitment to excellence, for example, would be likely to score lower than a detailed set of policies and procedures which demonstrate how excellence is to be attained.





36. *Criterion 3.* This has been evaluated in exactly the same way for each applicant. Applicants who can demonstrate that their proposal will come forward earlier than others' or who have offered sums from an earlier date have received full credit since their payments will be made over a longer period.

### **Evaluation of Aspers' proposal**

#### *Criterion 1*

37. The Committee agrees with the way the Panel has scored Aspers' proposal under this criterion, both as to the total score and the constituent elements in the calculation.
38. The Committee accepts and adopts the description of the Aspers' proposal in section 9.2 of the Panel's report. It considers that the wider scheme is an ambitious and exciting one for Southampton. It also considers that the casino proposal itself is professionally presented, detailed and credible.
39. So far as deliverability is concerned, it is impressed at Aspers' track record of delivery of large casinos. Of course, it is the only applicant which has delivered a large casino under the Act.
40. It is also impressed, as was the Panel, with the track record of delivery of the main players in the wider scheme as set out in section 9.3. It endorses the Panel's decision to take account of the state of progression of the scheme, the level of investment which has already been made to date, the existence of the CLDA and the heads of terms. It also accepts, for the reasons given by the Panel, that the casino licence will in and of itself catalyse the wider development.
41. The fact that the City Council itself has an interest in the site and the likelihood of planning permission being obtained for the scheme are matters which the Committee disregards for the reasons given above.
42. The Committee has given close consideration to the likelihood of delivery of the wider scheme. It would be a pointless exercise, a waste of the years spent and funds expended



in running the competition and a huge disservice to the people of Southampton to grant the licence for a casino which will not be built and a wider scheme which will never be delivered. It is quite obviously a huge responsibility which the Committee has taken extremely seriously.

43. A scheme which is merely nascent may appear attractive but lack the sense of planning and progression to enable a finding that it is “likely”. A scheme which is practically built out may be certain to be completed but the casino could not claim to be the cause of the wider scheme. In this case, the Committee considers the casino and the wider scheme to be apt for the site, attractive, thoroughly presented and justified, backed by credible participants and supported by a sufficient record of progression to enable the Committee to make a judgment about its likelihood of fruition. The Committee is also influenced by the judgment of the Advisory Panel itself which includes experts on the casino industry specifically and wider regeneration initiatives more generally.
44. A score of 6 for the deliverability of the wider scheme implies that deliverability is “more than likely, i.e. significantly more than 50%”. This is more than 5 (“likely, i.e. more than 50”) but less than 7 (“very likely”). The Committee considers that this is a fair evaluation of the deliverability of the wider scheme. It also considers that a score of 7 for the deliverability of the casino itself is correct.
45. The Committee has noted the comment by one rival applicant that there is no realistic prospect of a casino ever being developed at Royal Pier, that the scheme is unbuilt and unfinanced, and the applicant has no lease or other land interest and has apparently made no financial commitment. Of course, were the scheme already built, then the casino could not take credit for its delivery. Were it fully financed and with all relevant land interests disposed of or subject to legal agreements, a greater score than 6 might have been appropriate. As it is, the Committee is confident that it has judged the questions of deliverability and causative significance of the casino to the wider scheme fairly and accurately.
46. In summary, the Committee considered this to be a very impressive scheme, and was particularly impressed with the regeneration aspects of the proposal. It was glad to see the proposal for up to 730 residential apartments. It strongly endorses Aspers’ proposal



in respect of the employment of disadvantaged people. It considered that Aspers' engagement already with Southampton institutions demonstrates not only a real commitment to weave itself into the business, welfare and protective network in Southampton, but a commitment to deliver the scheme itself.

47. As a minor matter, the Committee considered that the proposed quiet room in the casino is too small for a casino of this size and commitment to achieve excellence in relation to problem gambling. It hopes to see this rectified at a later stage in the process. It has not, however, affected the scoring of the application.

48. As stated above, the Committee has considered each of the five scores suggested by the Panel in its scoring mechanism under Criterion 1, which result in a raw score of 380 marks. This is the leading mark amongst the four applicants, resulting in a final score under Criterion 1 of 750.

#### *Criterion 2*

49. The Committee accepts the scoring and reasons of the Advisory Panel under this head.

#### *Criterion 3*

50. The Committee accepts the scoring and reasons of the Advisory Panel under this head. It is not understood that Aspers has challenged the score in any event.

#### **Conclusion**

51. In conclusion, Aspers is an experienced operator with a track record of delivering large casinos. It is clear that a great deal of thought and commitment has gone into the proposal itself, as well as how it would be delivered. The Committee believes that the energy and commitment that has carried Aspers this far will continue and will help to drive forward the Royal Pier scheme as a whole. The Committee has unanimously reached the view that the Aspers proposal is likely to result in the greatest benefit to Southampton. In the opinion of the Committee it is, as stated above, head and shoulders above the other competitors.

#### **Condition of grant**



52. In accordance with Schedule 9 paragraph 5(3)(a) of the Act, the Committee has determined to add a condition to any licence requiring compliance with the executed Schedule 9 agreement. It directs that the provisional statement shall not be issued until the agreement has been signed and Aspers has signalled assent to such a condition.

53. In addition, of course, any eventual licence will be subject to the individual conditions added at Stage 1, the statutory conditions and the mandatory conditions. The default conditions were excluded in the Stage 1 decision.

**Period of grant**

54. In accordance with Schedule 9 paragraph 10(3) of the Act, the period of the provisional statement shall be three years from the date of this decision. Within that period, the Committee expects Aspers to have applied for a premises licence for the proposal. However, there is provision in Schedule 9 paragraph 10(4) for Aspers to apply for an extension of that period, which would enable it to explain the progress of the scheme. This enables the licensing authority to retain some control over the pace and timing of delivery.

55. For the reasons given above, and subject to the condition specified, Aspers' application for a provisional statement is granted.

.....  
Councillor Matt Tucker  
Chairman, Licensing Committee  
24<sup>th</sup> March 2016



Mr P Bates  
Head of Licencing  
Southampton City Council  
Licencing Services  
Civic Centre  
Southampton  
SO14 7LY

27 March 2019

Dear Mr Bates,

We refer to the Council's decision to grant to us a provisional statement for a large casino at the Royal Pier upon execution of the agreed Schedule 9 Agreement, which took place on 29 March 2016. Until that date, no provisional statement could be issued to us.

As the Council is only too well aware, we have unfortunately been unable to progress our large casino due to circumstances entirely beyond our control. Specifically, the construction of our large casino is wholly dependent upon the reclamation from the sea of the land upon which it will be built and that work has not yet commenced.

We know that the Council shares our frustration at this lack of progress.

We therefore write pursuant to schedule 9 paragraph 4 of the Gambling Act 2005 to request an extension to the three-year duration of our provisional statement. We understand entirely that the Council will wish to retain some control over the pace and timing of delivery and that the Council has a wide discretion when determining the length of any such extension. We would propose however that a period of a further three years would be appropriate, given that through no fault of our own, we remain in a broadly similar position to when the provisional statement was granted to us.

We are not aware that the Council has a prescribed application form for this request for an extension, or indeed that one has been prescribed by Government, but we will of course provide any further information or attend any meeting which the Council would find helpful before making a decision.

We wish to assure the Council that we remain as committed as ever to this ambitious venture and very much believe that we will still have the opportunity of delivering this large casino to Southampton and helping drive forward the Royal Pier scheme as a whole.

Yours sincerely

  
Derek Playford  
Director  
Aspers Universal Limited

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Southampton City Council  
Civic Centre,  
Southampton

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

Direct dial: 023 8083 3002  
Our ref: 2014/02548/70SLCP

E-mail: [licensing@southampton.gov.uk](mailto:licensing@southampton.gov.uk)  
Please ask for: Mr. Bates

Mr Derek Playford,  
Aspers Universal Limited,  
1 Hans Street,  
London.  
SW1X 0JD

17<sup>th</sup> April 2019

Dear Mr Playford,

***Application to extend Provisional Statement for Large Casino, Southampton***

Firstly I wish to apologise for the time it has taken to provide you with directions on how we will proceed with your request to extend the Provisional Statement issued to Aspers Universal Limited, as sought in your letter dated 27<sup>th</sup> March 2019. To ensure we follow an appropriate process we have obtained legal advice.

To allow a proper consideration of your request can you please supply me with information that can be presented to a licensing committee detailing:-

- what has occurred since the award of the Provisional Statement,
- any current activities to realise the project,
- the intended position of the project at the end of the extension period,
- the period of extension
- a time line of key project landmarks to the conclusion of the project.

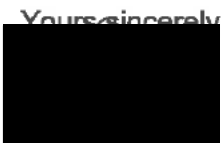
Once this information has been considered and accepted we will require you to advise and invite comment from the Responsible Authorities and the other applicants in the original process on your request to extend the Provisional Statement. Within 10 days of notifying this group a notice will be published in relevant publications. Southampton City Council will advise the details of these publications and the format nearer the time.

Parties will be given a period of 28 days from notifying the Responsible Authorities and other parties to make representations.

A Licensing Committee will be arranged within 20 working days at the end of the consultation period to determine the request. Any further information will need to be submitted no later than 7 days prior to the hearing date.

I hope this provides some clarity on the process and guidance on the information we require in order to properly determine your request.

Yours sincerely,



Phil Bates  
Licensing Manager

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Phil Bates  
Licensing Manager  
Licensing - Southampton City Council  
PO Box 1767  
Southampton  
SO18 9LA

7 May 2019

Dear Mr Bates,

### **Application to extend Provisional Statement for Large Casino, Southampton**

Thank you for your letter of 17 April 2019.

We write as requested with additional information relating to our written request on 27 March 2019 for an extension to the three-year duration of our Provisional Statement. As the Council is only too well aware, we have unfortunately been unable to develop our large casino due to circumstances entirely beyond our control relating to the development of the Royal Pier scheme. We wish to emphasise that our commitment to this venture remains as strong as ever, notwithstanding the lack of progress so far.

We would also kindly ask the Council to take into consideration that the three-year period was (quite reasonably) set by the Council rather than us, with the pragmatic and sensible purpose of enabling the Council to retain some control over the pace and timing of the delivery of the casino. We are extremely disappointed by the lack of progress and we share the frustration of the Council. We would like nothing better than to start work on the development of our casino tomorrow. However, we do remain optimistic that the overall development will progress given the political will and obvious commercial opportunity and confident that we can deliver all that is within our control.

The extension mechanism in schedule 9 of the Gambling Act provides us with the opportunity to explain the (lack of) progress of the scheme to date and for the Council to grant such further extension as it thinks would be reasonable, again maintaining a degree of control over the pace and timing of delivery. As the Council well knows, this is an ambitious, challenging and exciting venture involving the reclamation from the sea of the very land upon which our casino will be built. However, we remain as committed as ever and very much believe that we will have the opportunity to deliver our casino and help drive forward the Royal Pier scheme as a whole, which we understand is a longstanding and important regenerative development for the City of Southampton.

### **The Stakeholders**

By way of background explanation, our understanding is that the stakeholders in the Conditional Landowners Development Agreement ("CLDA") are (1) the Council (2) The Crown Estate (3) Associated British Ports; and (4) RPW (Southampton) Limited (the "Developer") (together the "Stakeholders"). We further understand that the Developer is controlled by Royal Pier Waterfront SARL ("RPW"), which is part of a Fund managed by KMG Capital Markets based in Cyprus (the "Fund"), and that the Fund finances the development activity of RPW. As one of the Stakeholders itself, we anticipate that the Council has a thorough understanding of this structure. As the Council well knows, the large casino premises lie within the RPW development, with the land itself formed by reclaimed seabed of the River Test.

In response to your specific requests for information:

**What has occurred since the award of the Provisional Statement?**

Throughout the three years since the Provisional Statement was awarded, we have maintained regular communication with the Developer and Lucent Group (the Fund's asset managers) and have demonstrated that we are ready to move forward with our casino development plans at the first opportunity.

We have invested considerable finance and resource in this venture and we have left the Developer in no doubt at all material times that we wished to see timely progress, but it would seem that the development of our casino has not been an overriding priority for them at this stage. We are not in a contractual position to compel the Developer to progress, but there is plainly a commercial imperative arising out of the value of our casino to the overall development scheme (to any developer of the Royal Pier scheme) and we consider strongly that this will yet prove to be a significant catalyst.

There was a certain amount of activity in the latter part of 2016, with the Developer securing planning consent for the relocation of the "Red Funnel" terminal and agreeing a masterplan for the overall Royal Pier development scheme, which we believe had the support of the stakeholders. We understood this was going to progress to a planning application that included our casino, albeit that there was pressure on the feasibility due to the considerable infrastructure costs associated with the land reclamation. In 2017, however, the Lucent Group and the Fund ran into financial difficulties, which has effectively meant that no further progress has been made.

During 2017, we were made aware that the Fund were seeking new development/investment partners, as they had limited remaining financial resources. In early June 2017, we met with representatives from the ASF Group ("ASF"). ASF are an Australian/ Chinese strategic investor specialising in large regeneration projects. ASF had signed an NDA with the Fund and were undertaking due diligence with a view to acquiring a controlling interest in the Fund. It was rumoured in July 2017 that a deal had been agreed. At the end of 2017, however, we learnt that the deal with ASF had been aborted and the Fund were continuing to seek alternative investors but had no financial resources to invest in the RPW development.

We understand that there was a further attempt by the Fund in the summer of 2018 to resurrect the deal with ASF, but this disintegrated in the autumn of 2018, due we believe to the Fund's unrealistic expectations of the value their interest in the CLDA.

**Any current activities to realise the project?**

We have maintained close contact throughout with all involved in the RPW development and we continue to push for progress. Our commercial property advisers, AGL, have been in dialogue with the Stakeholders and ASF over the last three years. We understood recently that the Council was understandably considering a review of the CLDA and the possible appointment of another party to help drive forwards the development. As you know, we therefore had a meeting with the Council in March 2019, so that we may understand the very latest status of the Royal Pier scheme and lend support where possible and appropriate.

We would welcome the opportunity to progress our casino development at the earliest opportunity and help revitalise the Royal Pier scheme. The commercial reality is that our aspiration is dependent upon the CLDA operating as was intended and/or a willing developer being in place and ready to invest. Until such time, there are limited activities we can undertake by ourselves to realise the project. The Council will have greater visibility than us, but we think that progress must only be a matter of time given the obvious commercial opportunity presented by the Royal Pier scheme. Meantime, especially during the present uncertain political and economic climate, we are confident that the existence of a provisional statement for our large casino within the Royal Pier scheme has the potential to act as an important and significant catalyst.

**The intended position of the project at the end of the extension period**

It will be evident to the Council from the explanation above that it is difficult for us to say with any certainty what the position will be at the end of the extension period. We would intend that the development will have been progressed to a stage where all the Stakeholders have a clear understanding of the key project landmarks through to the conclusion of the project and of the expected completion date.

The project requires a reappraisal of the masterplan, which simplifies but accommodates all the Stakeholders' requirements. The casino remains an integral part which will provide considerable investment as was demonstrated during the large casino competition.

We would hope that by the end of the extension period, either the existing developer or a new party can get to a position where the scheme has the credibility to succeed, with an implementable planning consent. Aspers are prepared to fully support this process.

**Period of extension**

We propose that a period of three years would be appropriate given that, through no fault of our own, we remain in a broadly similar position to when the Provisional Statement was awarded to us. This would allow the Stakeholders sufficient time to appoint a new developer, or to make progress themselves.

**A time line of key project landmarks to the conclusion of the project**

We are not yet in a position to identify a timeline of key project landmarks pending the development by RPW or any another developer of the Royal Pier scheme. At present, we remain dependent upon RPW being able to fulfil their obligations to develop the scheme.

Once you have had an opportunity to consider this additional information, we look forward to hearing from you to confirm the next steps. Please do not hesitate to let me know if you would like any further information or have any questions.

Yours sincerely,



Derek Playford  
Chief Financial Officer

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## NOTICE OF APPLICATION TO EXTEND A PROVISIONAL STATEMENT UNDER THE GAMBLING ACT 2005

Notice is hereby given that: ASPERS UNIVERSAL LTD

of the following address:

1 HANS STREET  
LONDON  
SW1X 0JD

Is applying for an extension of the provisional statement 2014/02548/70SLCP granted under the Gambling Act 2005 by Southampton City Council on 24<sup>th</sup> March 2016

The application relates to the following premises:

Casino Location Zone  
Royal Pier Waterfront Development  
Mayflower Park  
Southampton  
SO14 2AQ

The application has been made to: Southampton City Council to extend the grant of the provisional statement by a further 3 years until 24<sup>th</sup> March 2022

Information about the application is available from the licensing authority, including the arrangements for viewing the details of the application.

Any of the following persons may make representations in writing to the licensing authority about the application:

- A person who lives sufficiently close to the premises to be likely to be affected by the authorised activities
- A person who has business interests that might be affected by the authorised activities
- A person who represents someone in any of the above two categories.

Any representations must be made by the following date: 13<sup>th</sup> September 2019

**It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.**

## **NOTICE OF APPLICATION TO EXTEND A PROVISIONAL NOTICE GRANTED UNDER THE GAMBLING ACT 2005**

Notice is hereby given that: ASPERS UNIVERSAL LTD.

of the following address: 1 Hans Street, London SW1X 0JD

is / are applying for an extension of the Provisional Statement NUMBER 2014/02548/70SLCP granted under the Gambling Act 2005 by Southampton City Council on 24th March 2016.

The application relates to the following premises: Casino Location Zone, Royal Pier Waterfront Development, Mayflower Park, Southampton SO14 2AQ

The application has been made to: EXTEND THE GRANT OF THE PROVISIONAL STATEMENT BY A FURTHER 3 YEARS TO 24TH March 2022

Information about the application is available from the licensing authority, including the arrangements for viewing the details of the application.

Any of the following persons may make representations in writing to the licensing authority about the application:

- A person who lives sufficiently close to the premises to be likely to be affected by the authorised activities
- A person who has business interests that might be affected by the authorised activities
- A person who represents someone in any of the above two categories.

Any representations must be made by the following date: 13th September 2019

**It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.**

**From:** Roberts, David - MAN <[REDACTED]>  
**Sent:** 13 September 2019 15:03  
**To:** Licensing  
**Cc:** McGuinness, Ian  
**Subject:** RE: Aspers Universal Ltd - Application to extend Provisional Statement for a Large Casino

**Importance:** High

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.**

Dear Sirs

Further to your email of 16<sup>th</sup> August 2018 we confirm that we act on behalf of Genting Casinos UK Limited.

Our client wishes to notify the Licensing Authority that it does not have any objection to the application made by Aspers Universal Limited to extend the Provisional Statement it has been issued under the Gambling Act 2005 for a Large Casino to be located at Royal Pier Waterfront.

Should the Licensing Authority determine not to grant Asper's application for the extension of its Large Casino Provisional Statement it is our client's position that if it wishes to award a new Provisional Statement or Premises Licence for the Large Casino the Licensing Authority must re-start the Large casino competition process and invite new competing applications to be made.

Yours faithfully

David Roberts

Principal Associate, Head of Licensing & Gambling, Eversheds Sutherland (International) LLP

T: +[REDACTED]

M: [REDACTED]  
[www.eversheds-sutherland.com](http://www.eversheds-sutherland.com)

**Eversheds Sutherland**

Helping our clients, our people and our communities to thrive

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**From:** McGuinness, Ian [mailto:[REDACTED]] **On Behalf Of** Licensing

**Sent:** 16 August 2019 08:46

**Subject:** Aspers Universal Ltd - Application to extend Provisional Statement for a Large Casino

Good Morning,

Southampton City Council have received a request from Aspers Universal Ltd to extend the Provisional Statement for a Large Casino granted to them under the Gambling Act 2005 on 24<sup>th</sup> March 2016. As parties to the original process (Global Gaming Ventures (Southampton) Ltd., Grosvenor Casinos Ltd., Global Gaming Ventures (RP) Ltd. and Genting Casinos UK Ltd.) we are writing to inform you of the extension request and attach the notice of this extension request and the previous provisional statement application from 2014.

Any representations to this extension (ref: 2019/04474/70SLCP) must be received by 13<sup>th</sup> September 2019. Please direct replies to [Licensing@southampton.gov.uk](mailto:Licensing@southampton.gov.uk).

Kind regards,

Hayley Montague

Licensing Enforcement Officer

Southampton and Eastleigh Licensing Partnership

**Southampton City Council**

Tele: [REDACTED]

E-mail: [REDACTED]

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

Post: Licensing - Southampton City Council

PO Box 1767, Southampton. SO18 9LA

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**From:** Ros Cassy <[REDACTED]>  
**Sent:** 13 September 2019 09:52  
**To:** Licensing  
**Cc:** Forrest, Andrew  
**Subject:** Casino Licence/statement Extension Aspers Ref 2014/02548/70SLCP

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.**

I am writing to express concern at the application to extend the casino license/statement granted to Aspers 5 years ago as part of a proposed Royal Pier Waterfront Development.

At that time I submitted comments on behalf of Friends of Town Quay Park as I was Chair of the group at that time.

I now convene the Old Town Community Forum and am canvassing views urgently of members. In view of the extension granted for representations I will submit these within 14 days.

In the mean time I wish to log the following concerns:

- I cannot understand how a licence for a project now cancelled can be extended. The licence was part of the proposed RPW development which has recently been withdrawn and as far as I am aware no other development is currently being considered. How then can a licence be granted for something which doesn't exist?
- This is a largely residential area whose population has increased over the last 5 years due to further development of apartments. The tension still remains – indeed is heightened by this increased development in the immediate area – between regenerative benefit and improving people's quality of life through green spaces as well as overall health and wellbeing. If the proposed development is dependent on the casino I would urge the licensing panel to recognize that the world has moved on in 5 years and both the extensive development of this site and inclusion of a casino is even less acceptable to local people.
- Safety – crime, noise, disruption on dispersal and the impact on local policing and health services. As a resident I remain very concerned at the drift into neighbouring streets as people leave premises in the early hours of the morning and if a casino were developed in the area of Mayflower Park how managing public safety will be achieved with reduced public services. It is well established that police numbers have declined over the past five years so this would be an even more acute problem. How would this be managed?

Ros Cassy  
45 Bugle Street  
Southampton SO14 2AG

[REDACTED]

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**From:** Ros Cassy <[REDACTED]>  
**Sent:** 19 September 2019 09:57  
**To:** Licensing  
**Cc:** Forrest, Andrew  
**Subject:** Casino Licence/statement Extension Aspers Ref 2014/02548/70SLCP

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.**

Further to my email of 13<sup>th</sup> September I have now had comments from a number of members of the Old Town Community Forum.

There is strong public disquiet about the situation. Every single one of them is opposed to the development of a large casino on moral and economic grounds. There is a strong sense that the increased information about problem gambling and the ruin it can cause in people's lives should be accepted by Southampton City Council and that the licence should be withdrawn. There was strong local resistance to the original proposal and this has now hardened and the impact on local people whether as potential at risk gamblers or local people is of greater concern. Forum members realise that this may not be an allowable objection, within the legal licencing framework, to the statement extension but are very keen that these views should be noted.

The issue which does affect the extension is our total incomprehension as to how an extension can be given to a proposal which was linked to the development of the Royal Pier Waterfront which has now been shelved. The licence appears to be location specific to the Mayflower Park site. There remains strong resistance to the proposal to change this much valued open green space with its access to the waterfront into a commercial space. As there is no building, or indeed imminent prospect of a building, in which to site a casino surely therefore the licence should lapse?

Ros Cassy

On behalf of Old Town Community Forum

**From:** Graham Linecar [REDACTED]  
**Sent:** 20 September 2019 13:09  
**To:** Casino  
**Cc:** Forrest, Andrew; [REDACTED]  
**Subject:** Re: Application by Aspers to extend Provisional Statement for Large Casino at Royal Pier/Mayflower Park

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.**

I'm dismayed, to put it mildly, by your request. Please look at Licensing's file. You'll find record of contact & meetings with Richard Ivory, Jamie Hollis & Martin Grout in early 2013 & in 2014. It was accepted that SCAPPS could submit representations. I attended & spoke at the Licensing Committee September 2014 when it considered stage 1 competing bids for the Large Casino Licence because some of the bids, including Aspers', affected a park, & SCAPPS purpose is to protect parks. The correspondence on file & records of that meeting record my address, 3 Highfield Road Southampton SO17 1NX. I cannot give you list of addresses of SCAPPS members — breach of Data Protection.

Graham Linecar  
 Secretary, SCAPPS

Sent from my iPhone

On 20 Sep 2019, at 12:17 pm, Casino <[Casino@southampton.gov.uk](mailto:Casino@southampton.gov.uk)> wrote:

Dear Mr. Linecar,

*Aspers Universal Ltd.*

*Aspers Casino Royal Pier Development Mayflower Park Southampton SO14 2AQ*

I refer to your recent correspondence to make representation to the above provisional statement extension under the Gambling Act 2005.

In order for us to accept the representation please provide your home address so that we can demonstrate that you live "sufficiently close" to the proposed premises as required by the Act. Please note in order for the representation to be on behalf of a body representing others (SCAPPS) you will need to provide a list of names/addresses of those whom you represent.

Yours sincerely,

Hayley Montague

Licensing Enforcement Officer

Southampton and Eastleigh Licensing Partnership

**Southampton City Council**

Tele: [REDACTED]

E-mail: [REDACTED]

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

Post: Licensing - Southampton City Council

PO Box 1767, Southampton. SO18 9LA

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**From:** Graham Linecar [[mailto:\[REDACTED\]](mailto:[REDACTED])]

**Sent:** 13 September 2019 14:08

**To:** Licensing <[Licensing@southampton.gov.uk](mailto:Licensing@southampton.gov.uk)>; Forrest, Andrew

<[REDACTED]>

**Cc:** Ros Cassy <[REDACTED]>; Irene MacWilliam <[REDACTED]>;

Andy Gravell <[REDACTED]>

**Subject:** Application by Aspers to extend Provisional Statement for Large Casino at Royal Pier/Mayflower Park

**CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.**

Following correspondence with Andrew Forrest, I submit, on behalf of Southampton Commons & Parks Protection Society (SCAPPS) a representation on the current application by Aspers for extension of the Provisional Statement granted to them in 2016. SCAPPS is responding as representing the interests of those who use & enjoy the public park, Mayflower Park.

SCAPPS made representations at successive stages in the process for inviting & considering competing bids for a Large Casino Licence. SCAPPS' principle concern is the unsuitability of a site next to a public park & children's play area for a gaming establishment. This was acknowledged by the Licensing Committee & applicants & conditions imposed which would reduce visibility of the casino from the Park, but SCAPPS continues to express concern that a gaming establishment is not appropriate next to a public park.

SCAPPS expresses considerable concern about the uncertainty surrounding if, when & how any development proposal will come forward which would result in a building on the site defined on plans specified in the Provisional Statement. The plan is one from the planning application made by RPW Developments. The planning application remains undetermined -- in other words, no planning permission exists for the 'premises' named in the Statement. The City Council has announced its withdrawal from its agreement with RPW Developments. It is reasonable to conclude there is now no chance of the RPW development project proceeding. The Aspers site lies off-shore with no immediate prospect of there being the reclamation & development which would provide the 'premises' specified in the Provisional Statement.

Aspers refer to the hope, & at this time it can be no more than a 'hope', that an alternative developer may come forward. That is of major concern to SCAPPS. The alternative development scheme may be for a smaller area -- it seems the site specified by Aspers may at present be the area of water covered by the derelict Royal Pier. The City Council has suggested it might be interested in entering into an agreement again threatening destruction of the present Mayflower Park. In both cases, SCAPPS would oppose extension of the Provisional Statement because of uncertainty as to impact on the Park. If the period in which Aspers may work up its proposal is extended it is inevitable that they will request variation in the siting & possibly extent of the casino to 'fit' with any proposals an alternative developer is working-up. SCAPPS cannot foresee any conditions which can be imposed which would protect the Park from destruction or safeguard against unsuitable juxtaposition of a major gaming establishment with a recreation area used by children & young persons.

Graham Linecar  
Secretary SCAPPS

This email is confidential but may have to be disclosed under the Freedom of Information Act 2000, Environmental Information Regulations 2004 or data protection legislation. 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 email (and its attachments) is intended only for the use of the person(s) to whom it is addressed, and may contain information that 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.

### **Procedure – Applications etc. under the Licensing Act 2003 or Gambling Act 2005**

1. A hearing will be held to decide applications, etc., under the Licensing Act 2003, where there have been relevant representations from one or more of the responsible authorities or other persons. The parties to the hearing will have the chance to be heard. They are also entitled to be helped or represented by another person if due written notice is given in advance.
2. Hearings will take place before a Sub-Committee comprising three members of the Licensing Committee. One of these members will be elected Chair of the Sub-Committee for that hearing.
3. Please note that for day time hearings the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

#### **Preliminary matters**

4. The Chair will introduce those present.
5. The Chair will check whether any of the Sub-Committee members has a “disclosable pecuniary”, “personal” or “pecuniary” interest.
6. The Chair will check whether all the parties are present at the hearing, and if any are not, whether they have told the Council that they do not wish to attend or be represented. If any party who was expected to attend has not done so, the Sub-Committee will decide whether to hold the hearing in that party’s absence, or to adjourn it to another date. Hearings will be adjourned if the Sub-Committee considers this necessary in the public interest, if that is possible. If the Sub-Committee decides to hold the hearing in a party’s absence, they will still consider any written information received.
7. In the case of an application for variation or a new licence, the Sub-Committee’s legal advisor will ask the applicant or their advisor for confirmation that the required public notices have been displayed where they can conveniently be read from the exterior of the premises and that notice was given in a local newspaper within eleven working days of the day on which the application was received by the licensing authority.
8. Normally, hearings will be open to the public. However, the Sub-Committee may exclude the public from the hearing (or part of it) if they think the public interest in doing so outweighs the public interest in having the hearing in public. If the public are excluded, any of the parties to the hearing, and/or anyone helping or representing them, may also be excluded.
9. The Chair will propose a motion that the public and the press be excluded from the hearing while the Sub-Committee considers the matter. Ordinarily the legal advisor and democratic support officer will remain (see paragraph 30 (b) below).
10. The Openness of Local Government Bodies Regulations 2014 provide an entitlement for the public to film, photograph and audibly record (“record”) public meetings. However, by virtue of Schedule 6, paragraph 58 of the Licensing Act 2003 and section 101 (15) of the Local Government Act 1972, Licensing Act 2003 hearings are not covered by the entitlement to film as of right. The Council’s general approach is to encourage openness and transparency in all its dealings and the general presumption is that filming or recording of hearings shall generally be permitted where due notice has been provided in advance of the hearing. Nonetheless the following shall apply:

- i) Filming / recording / photographing hearings shall only be permitted with the express permission of the Chair. Such permission may include restrictions to protect children, vulnerable persons or others that object to being filmed / photographed / recorded.
  - ii) Requests to film / record / photograph should be made with sufficient notice in advance of the hearing. Late requests may not be granted if there shall be a delay to proceedings as a result.
  - iii) Every party to the hearing and any witnesses shall have the opportunity to object and those representations shall be considered by the Sub-Committee.
  - iv) No filming, photography or sound recording shall be permitted of any person under 18 years of age.
  - v) No person shall be put under any pressure to consent to such and no payment for such consent shall be given.
  - vi) The Chair shall have the final say as to whether any filming, photography or recording is allowed (including the extent to which permission is granted e.g. the parts of the meeting, the individuals concerned or the arrangement of the recording equipment).
  - vii) All directions given by the Chair shall be fully complied with and the Chair shall have the absolute discretion to withdraw permission to film, photograph or record in the event the same causes an obstruction or interferes with the general conduct of the hearing, including the impeding of the giving of proper evidence.
11. A party may have asked for someone else to appear at the hearing to make a point or points that may help the Sub-Committee reach a decision. It is up to the Sub-Committee to decide whether that person should be heard, although permission will not be refused unreasonably. Such a person is referred to as a “witness” in this procedure.
12. Where application has been made, in advance of the hearing, that it should be conducted in private (e.g. by the Police in review or summary review proceedings) reports shall be prepared and presented as confidential so that the Committee can make a meaningful determination in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 to exclude the press and public. It is important to note that reports presenting Licensing Act 2003 matters are not required to be published in advance. However, certain limited information must be published in accordance with the Licensing Act 2003 (Licensing Authority’s Register) (Other Information) Regulations 2005 and section 8 of the Licensing Act 2003.
13. The Chair will then explain the procedure that will follow.
- General information on the conduct of the hearing**
14. Each party is entitled to:
- (a) Give further information in response to any point that the Council told them before the hearing they would like clarified;
  - (b) With the permission of the Chair, seek clarification on any point by any other party;
  - (c) Address the Sub-Committee.
15. Members of the Sub-Committee may also seek clarification of any party or witness.
16. At the Chair’s discretion, the Sub-Committee’s legal advisor may ask any questions he or she thinks are relevant.

17. Unless the Council has requested in advance that a particular point be clarified, new documentary or other evidence may not be submitted for the first time at the hearing, unless all the other parties agree.
18. Members of the Sub-Committee will have read all the papers included in the agenda for the hearing before the hearing starts. The parties are requested not to spend unnecessary time repeating evidence which is already in the papers and which is not disputed.
19. Evidence that is not relevant to the case, or to the promotion of the four licensing objectives, will be disregarded.

### **Hearing Procedure**

20. If any party has asked permission for a witness or witnesses to appear, the Sub-Committee will decide whether they should be heard (see paragraph 10 above).
21. All parties will be allowed a similar (and maximum) amount of time to put their case, and ask questions of other parties, subject to the Chair's discretion to not hear repetitive matters or questions.

### **The applicant**

22. The applicant for the licence (or their representative) or the applicant in review proceedings, may present their case.
23. If the Sub-Committee permits, the applicant may call those witnesses whose names have been provided in advance to support their application.
24. Where a group of witnesses wish to speak in support of the application for similar reasons, one person should, where possible, act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if their evidence simply repeats points already made.
25. The Chair will invite those making representations to seek clarification on any point made by the applicant. The Chair will decide in which order those making representations will be invited to put their questions.
26. Members of the Sub-Committee or the Legal Advisor, if so permitted by the Chair, may also seek clarification of the applicant or any of their witnesses.

### **The representations**

27. Where there is more than one person making a representation, the Chair will decide the order in which they may put their case. If there is a representation from one or more of the responsible authorities, their representatives will normally be invited to put their case first.
28. The following procedure will apply to each person making a representation in turn:-
  - (a) The person making a representation (or their representative) may present their case.
  - (b) If the Sub-Committee permits, the person making a representation may call those witnesses whose names have been provided in advance to support their objection.
  - (c) Where a group of witnesses wish to speak in support of the objection for similar reasons, where possible, one person should act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if their evidence simply repeats points already made.

- (d) The Chair will invite the applicant to seek clarification on any points made by those making representations.
- (e) Members of the Sub-Committee or the Legal Advisor, if so permitted by the Chair, may seek clarification of those making representations or any witnesses.

### **Summing up**

- 29. The Chair will invite each person making a representation to make a final statement or sum up their case.
- 30. The Chair will invite the applicant to make a final statement or sum up their case.

### **Sub-Committee's decision**

- 31.
  - (a) At the end of the hearing the Sub-Committee will move to private session whilst it considers the matter.
  - (b) The Sub-Committee's legal advisor will remain to provide legal advice and the democratic services officer will remain to record the decision. Details of any legal advice will be recorded and referenced in the decision and reasons.
  - (c) The parties will be invited to wait to be informed of the outcome.
  - (d) As soon as the decision is reached, the public and press will be invited to return to the room in which the hearing took place, and the Chair will announce the decision and the reasons for it.
  - (e) If a room is available, the Committee may retire to deliberate and make its decision
  - (f) All parties will be formally notified in writing of the decision and reasons as soon as possible.

In most cases the Sub-Committee will announce the decision at the conclusion of the hearing. In certain cases where this is not possible due to time constraints (and the Hearings Regulations permit – Regulation 26 (1) sets out those hearings where delay is not possible) the decision shall be made within 5 working days beginning with the day of the hearing or the last day of the hearing.