



# GENTING CASINOS

UNITED KINGDOM

## By email and post

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

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

8th March 2013

Dear Sirs

## Large casino licence

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

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

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

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

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

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

## Genting Casinos UK Limited

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

**London Office:**  
Genting Casinos UK Limited,  
31 Curzon Street,  
London  
W1J 7TW  
Tel: 0207 493 7771  
Fax: 0207 629 3257

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

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

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

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

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

Yours faithfully

A handwritten signature in black ink, appearing to read 'Elizabeth Tarn', with a stylized, cursive script.

Elizabeth Tarn

General Counsel and Company Secretary

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