

LEGAL & DEMOCRATIC SERVICES

**RICHARD IVORY, Solicitor,**

**Head of Legal and Democratic Services**

**Southampton and Eastleigh Licensing Partnership**

Southampton City Council

Licensing Services

Civic Centre

Southampton SO14 7LY

Direct dial: 023 8083 2749

Please address all correspondence to:

**Licensing – Southampton City Council,**

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



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

Our ref:

Please ask for: Martin Grout

Your ref:

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

14<sup>th</sup> November 2014

Dear Sirs,

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

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

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

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

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

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

I look forward to hearing from you.

Yours faithfully,

*M. K. O'Connell*

Locum Licensing Officer  
for Head of Legal and Democratic Services

## APPENDIX 1

### KYMEIRA CASINO LTD

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

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

**Item 1**

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

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

**To:** Grout, Martin

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

**Subject:** Stage 1 Licensing Committee meeting

Dear All

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

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

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

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

Kind regards

Martin Grout

Locum Licensing Officer

Licensing Department

Legal and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

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post: Licensing - Southampton City Council

**Item 2**

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

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

**To:** Grout, Martin

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

**Subject:** RE: Stage Two

Dear Martin

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

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

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

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

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

Kind regards,

Andrew

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

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

**Item 3**

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

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

**To:** Andrew Cotton

**Subject:** RE: Stage Two

Dear Andrew

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

Kind regards

Martin

**Item 4**

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

Martin

Thanks for your reply.

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

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

Regards,

Andrew

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

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**Item 5**

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

**Sent:** 22 September 2014 21:54

**To:** Andrew Cotton

**Cc:** Pram Nayak (pram.nayak@btinternet.com)

**Subject:** RE: Stage Two

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

I look forward to seeing you next week.

Kind regards

Martin



**Item 6**

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

Martin

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

Regards,

Andrew

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

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**Item 7**

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

**PRESENT:**

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

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

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

**Item 8**

Tue 07/10/2014 08:04

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

Casino Licence Process Stage 2

'acc@jgrlaw.co.uk'

Dear Andrew

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

Kind regards

Martin Grout

**Item 9**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
Head of Legal and Democratic Services  
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9LA**



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

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

7<sup>th</sup> October 2014

Dear Sirs,

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

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

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

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

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

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

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

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

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

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

Yours faithfully,



Locum Licensing Officer  
for Head of Legal and Democratic Services

**Item 10**

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

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

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

Just back from IOL training.

Regards,

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

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**Item 11**

*LEGAL & DEMOCRATIC SERVICES*

**RICHARD IVORY, Solicitor,  
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London  
W1F 8GQ

10<sup>th</sup> November 2014

Dear Sirs,

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

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

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

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

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



Yours faithfully,

A handwritten signature in black ink, appearing to read 'M. [unclear]'. The signature is written in a cursive style with a long horizontal stroke at the end.

Locum Licensing Officer  
for Head of Legal and Democratic Services