

KYMEIRA CASINO LIMITED

Martin Grout
Locum Licensing Officer
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22nd April 2015

Dear Martin

Thank you for your letter of 16th April 2015 with its enclosures which we have noted with interest. We have the following brief submissions on behalf of Kymeira Casinos Limited.

First, there can be no reasonable basis to suggest that the hearing on 9th April 2015 was not conducted in a fair and open manner. From the outset the Chair made it clear that any party who wished to speak would be allowed to do so. Those who chose to speak were not limited as to time nor were they restricted on the issues which they chose to address (other than to restrict the ambit of Kymeira's question concerning the precise configuration of the casino on the original platform). Indeed the representative of GGV was given considerable latitude in respect of the wide ranging submissions which he chose to make which went far beyond the provisional agenda items identified by the Council in the agenda papers. In the circumstances it is regrettable that GGV now seek to argue for such a narrow interpretation of the agenda for the purpose of challenging the decision which the committee made on 10th April.

Secondly, the agenda itself was obviously not set in stone and no-one at the hearing sought to argue that it was. Indeed, there was no statutory requirement to hold a hearing and no regulations prescribing the hearing procedure which was entirely a matter for the committee. In any event, the question whether further time might be needed to submit stage two applications was inextricably linked to the written agenda items which included the question whether new applications might be permitted and the extent to which the legislative provisions allowed flexibility to vary the plans and information lodged at stage one for the purposes of submitting a suitable application at stage two. No-one present at the hearing could have been in any doubt that the question of timing was a live and relevant issue.

Thirdly, contrary to the assertion made in GGV's letter to the Council of 16th April (paragraph 4) each of the competing applicants was expressly asked in turn whether the existing time table would allow them to make their stage two applications by the deadline as it was at the time of the hearing or whether they required further time. The reply from three of the four applicants present was that three months from the date of the hearing was required. It is of particular significance that the Chair allowed GGV to make its representations last, having heard the representations of others and the questions which were put to them (and the answers which they gave). GGV's representative chose to make a number of submissions, some of which concerned broad issues which were not on the agenda. He was permitted to do so and no other party to the proceedings objected to him doing so. Notwithstanding the latitude which he was allowed, GGV's representative raised no argument

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suggesting that the committee did not have the power to extend the time table for the submission of stage two applications. It was obvious to all that one of the options open to the committee was to extend the time for submitting stage two applications whatever it was to decide on the question of the precise position of the casino or whether new applications might be permitted.

Fourthly, while Kymeira adopted a neutral position on the question whether the casino might be moved within the Royal Pier Development it is conscious of the reasons why others submitted that flexibility should be allowed. It is plainly apparent that the delay in processing stage two applications was occasioned by reliance by some parties on the Council's express advice in its Advice Note of June 2014 which stated:

The council has been asked to clarify the potential conflict between the Regulations that specify the form and content of an application in so far as it relates to being able to provide a detailed plan of the proposed premises.

Applicants will be aware that the Gambling Act (Premises Licence and Provisional Statements) Regulations 2007 states that the application shall be accompanied by a scale plan of the premises and paragraph 4(2) then states that the plan "must" show certain design elements. However, this is then relaxed slightly by paragraph 10(3) which states: "Where the application relates to premises which the applicant expects to be constructed or altered, any reference in paragraphs (2) to (9) of regulation 4 to the premises to which the application relates is to have effect for the purposes of this regulation as a reference to those premises as they are expected to be when constructed or altered".

The council has taken legal advice and is able to state that we will accept Stage 1 Applications that show a red line around the whole of the proposed development and encourage applicants to make this as comprehensive as possible within the constraints this situation creates.

Kymeira chose not to rely on the red line advice (which is why it was neutral on the issue at the hearing of 9th April). But it was apparent from the evidence received at the hearing that others reasonably did so. It was also apparent that discussions which took place between the developer and other operators focused on the perceived flexibility which the Council's advice appeared to provide. That, it seems, would have led to a process which would have required a reconfiguration of the master plan which is why the information which Kymeira would have needed to progress its application on the platform shown on its plan for stage one was not forthcoming.

The inevitable uncertainty which was occasioned by these relatively complex issues has been settled by Committee's ruling of 10th April which noted that there had been "room for legitimate debate as to whether the application site can or should be shown as WQ2, which has occasioned delay". In the circumstances, if the large casino competition is to achieve its purpose of benefiting the area and the people of Southampton, it is not only reasonable but essential to allow an extension to the time table to allow stage two submissions to be presented for the Royal Pier site on the final position and configuration of the casino which must now be identified by the developer in accordance with the master plan for the development as a whole.

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In light of the information disseminated by RPW Southampton Limited yesterday, and in particular their timeframe for providing relevant information with regards to the Casino design and location, we will require the full time as proposed by the committee for stage two applications.

In conclusion, Kymeira entirely agrees with the assertions made in the Council's letter to GGV of 15th April 2015. For the additional reasons summarised above, but in particular the timeframe for engagement by RPW Southampton Limited with regards to the site, submits that there is no reason to alter the decision of 10th April concerning the extension of time for submitting stage two applications to 10th July 2015.

Yours sincerely



PP **Ernie Battey**
Director

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