



**Government
of South Australia**

TRS19D1114

Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
SEMAPHORE SA 5019

lee@parliament.sa.gov.au

Treasurer
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State Administration Centre
200 Victoria Square
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Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (FOI Act), dated 9 May 2019.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Casino Regulatory Review' as described on the Objective document management system, between 12 July 2018 and 9 May 2019."

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 26 May 2019 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. Three documents were identified as answering the terms of your application.

I grant you access in full to 1 document; a copy of which is enclosed.
I refuse you access in full to 2 documents.

Document released in full

Document 3

Documents refused in full

Documents 1 - 2

Documents 1 and 2 are correspondence between DTF and my office in relation to the Casino regulatory review. This correspondence formed the basis of information which was included in a submission that went to Cabinet on both the Casino regulatory review and broader gambling reforms in South Australia.

I therefore determine both documents exempt, pursuant to clause 1(1)(c) and (f) of the FOI Act.

Document 1 contains information in an email between my office and the Department of Treasury and Finance with questions for the purpose of conducting well-informed research regarding the Casino Regulatory Review.

Release of document 1 would be against the public interest because it would prejudice the ability of my office to obtain data in the future. By preventing a Minister's Office from being able to ask fearless and frank questions for the conduct of research of one of its agencies, this would negatively affect the ability of a Minister to conduct well-informed research into matters for the Government to consider and make educated decisions for the benefit of state. This adverse effect outweighs the applicant's individual interest in obtaining the data.

I therefore determine document 1 exempt, pursuant to clause 8 of the FOI Act.

Document 1 and 2 are internal working documents. Document 2 provides me, as Treasurer, with recommendations and options as part of the regulatory review for the Adelaide Casino. The disclosure of this information tends not to be in the public interest as it would inhibit frankness and candour in future communications. Disclosure of documents which do not fairly disclose the reasons for a decision subsequently taken may be unfair to the decision-maker and may prejudice the integrity of the decision-making process.

I therefore determine both documents exempt, pursuant to clause 9(1)(a)(i)(ii) of the FOI Act.

Exemptions

Clause 1 – Cabinet Documents

(1) *A document is an exempt document—*

- (a) *if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
- (b) *if it is a preliminary draft of a document referred to in paragraph (a); or*
- (c) *if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*
- (f) *if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.*

Clause 8 – Documents affecting the conduct of research

(1) *A document is an exempt document if it contains matter—*

- (a) *that relates to the purpose or results of research (other than public opinion polling that does not relate directly to a contract or other commercial transaction that is*

- still being negotiated), including research that is yet to be commenced or yet to be completed; and*
- (b) *the disclosure of which—*
- (i) *Could reasonably be expected to have an adverse effect on the agency or other person by or on whose behalf the research is being, or is intended to be, carried out; and*
 - (ii) *Would, on balance, be contrary to the public interest.*

Clause 9 — Internal Working Documents

- (1) *a document is an exempt document if it contains matter—*
- (a) *that relates to—*
 - (i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*
 - (ii) *any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*
 - (b) *the disclosure of which would, on balance, be contrary to the public interest.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045)*, the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, Section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, Section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on 8226 9769.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

15 December 2019

RELEASE

MINUTE



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File T&F12/0847

Doc No A863204

To The Treasurer

ADELAIDE CASINO REGULATORY REVIEW

Timing: ROUTINE

Recommendations/Issues: It is recommended that you:

- Note that the former Government committed to a review of the regulatory requirements for the Adelaide Casino (SKYCITY Adelaide).
- Approve the Department of Treasury and Finance undertaking a review of the regulatory requirements for the Adelaide Casino on a no commitment basis. The review would focus on the ability for the Adelaide Casino to compete with its interstate and international peers and changes required to accommodate the new hotel within the existing regulatory framework.
- Note that assistance from other areas of Government to undertake the review (eg Consumer and Business Services) will be sought as required.
- Sign the attached draft letter to Skycity Adelaide noting that a review of the regulatory arrangements for the Adelaide Casino will be undertaken on a no commitments basis (Attachment 2).

Approved / Not Approved

Hon Rob Lucas MLC
Treasurer

/ /

Key Points:

- Skycity Adelaide holds the sole Casino licence issued under the *Casino Act 1997* (the Act). The term of the casino licence expires on 30 June 2085.

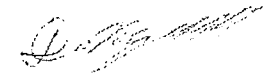


- During 2012 the former Government undertook a negotiation process with Skycity Adelaide for extension of exclusivity for a further 20 years until 30 June 2035. Those negotiations resulted in an upfront payment of \$20 million and commencement of legislative amendments and agreements in 2013 and 2014 which provided the Adelaide Casino with new tax and regulatory arrangements.
- As part of these negotiations, Skycity announced their intention to undertake a significant expansion of the Adelaide Casino. The provision of exclusivity and the new tax rates provided to the Casino were tied to the completion of the extension.
- In 2016, Skycity approached the former government seeking some changes to the conditions within their existing Approved Licensing Agreement (ALA). These changes related to both premium gaming and gaming on the main floor of the Casino. The Casino were seeking approval for the changes prior to entering into a Development Agreement for the Adelaide Casino expansion project.
- In 2017, the former Government approved a Variation to the ALA for the Adelaide Casino, subject to Skycity entering into a Development Agreement for the expansion project. The amendments focused on premium gaming (not general Casino operations) and included:
 - The introduction of 1000 'general' guest passes for the premium gaming area, plus a further 200 special event guest passes to the premium gaming area for up to 10 events per year.
 - Increasing the number of guests that can accompany an existing premium member into premium gaming facilities from 1 to 4.
 - Reducing the premium gaming customer qualifying gaming machine expenditure threshold from \$12,000 p.a. to \$8,000 p.a.
- Changes were also made to the *Lottery and Gaming Regulations 2008* to enable greater flexibility in the conduct of trade promotions by Adelaide Casino.
- Subject to Skycity entering into a Development Agreement for the expansion of the Casino, the Government agreed to extend the date that the expansion project must be completed by to retain exclusivity and tax rates. This date was extended from 30 June 2019 to 4½ years after the completion of Early Works on the broader festival centre precinct.

Review of regulatory arrangements

- In addition to the changes implemented in 2017, the former Government wrote to Skycity (Attachment 1) committing to a review the regulatory arrangements for the Casino by the fifth anniversary of the commencement of the current exclusivity and regulatory arrangements (February 2019).
- The letter provided to Skycity stated that the review would include an assessment of the competitive position of the Adelaide Casino as an international destination, and a comparison of regulatory requirements of other jurisdictions.
- While the current government is not bound by previous commitments, given the investment being made in South Australia by the Adelaide Casino, it would seem appropriate to review the current arrangements for the casino.

- This reflects the significant regulatory changes introduced in 2014 and the changes to the Casino business model with the introduction of the hotel facilities. It is likely that there may need to be some changes made to existing regulatory arrangements to accommodate the operation of the hotel that weren't envisaged back in 2014 when the changes were first introduced.
- Any review should recognise the market that the Casino operates within. This includes that on the main gaming floor of the Casino it primarily competes against hotels and clubs for gaming machine patronage. Where the casino competes with other South Australian businesses there are no real advantages to the State overall, it is just a shift between businesses.
- The premium area of the Adelaide Casino can be viewed differently due to the existing access requirements. This includes that customers must not be from South Australia (eg interstate or overseas) or if they are from South Australia they must be high valued clients based on their overall level of gambling expenditure. The clients in the premium gaming room are more likely to visit interstate and overseas casinos. To the extent that the casino can attract clients to South Australia (or retain clients) this can have overall benefits to the state.
- Given this, it is recommended that any review should focus on the requirements for premium gaming area and regulatory changes required to accommodate the new hotel facilities.
- It is proposed that the review of regulatory arrangements be led by Treasury and Finance with assistance from other agencies across government (eg Consumer and Business Services) as required. The Commissioner for Consumer and Business Services has indicated that he is comfortable with this approach.
- A draft letter to Skycity indicating your approval to undertake a review of the regulatory arrangements for the Casino is attached for your consideration. It notes that the review is being undertaken on a no commitments basis.



David Reynolds
CHIEF EXECUTIVE

24 July 2018

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| Contact Officer: | Greg Raymond Director Revenue & Intergovernmental Relations |
| Telephone: | 822 69537 |
| Email: | greg.raymond@sa.gov.au |

PREM17D04430.2



Hon Jay Weatherill MP
Premier of South Australia

Mr Chris Moller
Chairman, SKYCITY Entertainment Group Limited
PO Box 6043
AUCKLAND NEW ZEALAND 5022

Dear Mr Moller

As you would be aware, the current regulatory and taxation arrangements for the Adelaide Casino commenced in 2014 following amendments to the Approved Licensing Agreement and Casino Duty Agreement. Amongst other things the new regulatory arrangements were designed to enable the Adelaide Casino to compete in the international and interstate gaming market and to provide strong responsible gambling measures.

Given the extensive changes introduced as part of the 2014 amendments, the Government considers that it would be appropriate to review the regulatory arrangements after they have been in operation for a sufficient period of time.

The Government commits to undertake a full review of the regulatory requirements for the Adelaide Casino. The review is to commence by 30 June 2018 and be completed before 14 February 2019, being the fifth anniversary of the commencement of the current exclusivity and regulatory arrangements.

The review will include a full assessment of the competitive position of the Adelaide Casino as an international destination and its ability to compete with interstate and international casinos. This would incorporate a review of the comparative regulatory requirements in other jurisdictions.

The above commitment is conditional on SKYCITY Adelaide entering into, by 8.30am on 25 July 2017, a Development Agreement with Renewal SA for the Adelaide Casino expansion project, which contains terms which have been agreed with Renewal SA including terms which:

1. commit SKYCITY Adelaide to undertake the expansion project;
2. include a substantial construction commencement date (i.e. the main contractor commencing site works) of no later than three months after the completion of the works under the Early Works Agreement dated 25 May 2016 between the Minister for Transport and Infrastructure and SKYCITY Adelaide;

3. require SKYCITY Adelaide to pay a non-refundable lump sum amount of \$12.06 million upon the granting of the ground lease for the expansion site under the Development Agreement; and
4. include Industry Participation requirements agreed with the Government.

Should you wish to raise any specific proposals ahead of the review please contact Stuart Hocking, Deputy Chief Executive, SA Department of Treasury and Finance.

Yours sincerely



John Rau
Acting Premier

20 July 2017

Cc: Mr Luke Walker, General Manager, SKYCITY Adelaide



**Government
of South Australia**

TRS18D1363

Mr Chris Moller
Chairman
SKYCITY Entertainment Group Limited
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Dear Mr Moller

I refer to a letter addressed to you, dated 20 July 2017, written by the former Government committing to undertake a review of the regulatory requirements for the Adelaide Casino.

The letter stated that given the extensive changes to the licensing and taxation arrangements for the Adelaide Casino introduced in 2014, it was considered appropriate that they be reviewed after they had been in operation for a sufficient period of time.

The current Government recognises the investment that SKYCITY is making in South Australia as part of the expansion of the Adelaide Casino and the new hotel development. I agree that it would be appropriate to review the existing regulatory arrangements for the Adelaide Casino to make sure they are suited to the operating arrangements for an expanded Casino and hotel complex.

It is proposed that a review of the regulatory arrangements for the Adelaide Casino be undertaken by the South Australian Department of Treasury and Finance with input from other Government agencies as required. The review would be undertaken on a no commitments basis and will focus on the competitive position of the Adelaide Casino as an international destination.

Officials from the Department of Treasury and Finance will be in touch with Mr Luke Walker, General Manager SKYCITY Adelaide, to discuss the process for the review.

Should you have any questions regarding the review please contact Stuart Hocking, Deputy Chief Executive, Department of Treasury and Finance on either telephone 8226 9567 or by email on stuart.hocking@sa.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Lucas'.

Hon Rob Lucas MLC
Treasurer

29 July 2018

cc: Mr Luke Walker, General Manager, SKYCITY Adelaide