



THE STAR

17 July 2019

Dear Angus

Casino Control Regulations 2019

Thank you for the opportunity to comment on the proposed remake of the Casino Control Regulation 2009 and Gaming Machines Regulation 2019 and corresponding Regulatory Impact Statements (RIS).

The Star has reviewed the proposed changes and is supportive of the approach to update and simplify some of the obligations imposed by proposed regulations.

The Star has focussed its review on the proposed Casino Control Regulations and restricts its submission to the Casino Control Regulations.

During our review of the Casino Control Regulations, The Star has identified several potential changes which if implemented will create an effective compliance regime, minimise the potential for harm to the community and reduce the regulatory burden on casino operators.

The enclosed document details those proposed changes to the draft regulations. For clauses not referenced in that document, please regard The Star as supportive of those clauses.

In The Stars view these proposed amendments are not controversial in nature nor represent a significant shift in current policy.

Should you have any questions or require further clarification or assistance, please do not hesitate to contact me directly on [REDACTED] or by email at [REDACTED]

Yours sincerely

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THE STAR SYDNEY SUBMISSION ON THE PROPOSED CASINO CONTROL REGULATION 2019

Introduction

The Star Sydney (**The Star**) is one of Sydney's major international tourism and entertainment destinations. The property welcomes around 14 million guests a year, including approximately 52,000 guests every Friday and Saturday night to the casino alone. It is an entertainment precinct with a mix of food, beverage, entertainment and gaming activities.

The Star makes a significant contribution to New South Wales (**NSW**), both to the economy and the community more generally. Apart from being the largest single site employer in Sydney, The Star will generate \$14.2 billion output to NSW and provide a \$7.8 billion increase in Gross State Product in the period FY 2017 - 2030.

As NSW's only integrated resort, The Star is subject to more stringent regulation and oversight than other gaming venues. This unique oversight exists to manage the inherent risks associated with accommodating local, domestic and international markets. It includes regulation via the *Casino Control Act 1992* (the **Act**), which is typical of all Australian jurisdictions and other overseas jurisdictions such as Singapore, and Commonwealth legislation, such as the *Anti-Money Laundering and Counterterrorism Financing Act 2006*.

The Star offers its guests a number of service offerings, including a varied gaming product – gaming machines, electronic table games and table games. The Star has separate VIP areas to satisfy high value international visitation and also provide high-end hotel management and diverse food and beverage services to guests. More broadly, our multi-use venue has contributed to the State through activities undertaken to develop the human capital of staff, urban development and taxation.

The Star actively works with NSW Police and the Casino Regulator to ensure it remains one of the safest and most responsibly operated licensed and gaming venues in the State, and has demonstrated a strong track record of compliance and self-reporting over many years.

In addition to the Responsible Conduct of Gaming, The Star has a significant focus on Responsible Service of Alcohol (**RSA**) and related safety strategies, as proven methods of reducing anti-social behaviour. The safety and comfort of its guests is an absolute priority. There are 3,500 digital television cameras and a security and surveillance team of approximately 250 personnel, ensuring the utmost level of safety is maintained.

The Star has consistently held the top ranking for *Responsible Gambling* in the Dow Jones Sustainability Index for the last four years and has been the *Global Leader – Casino and Gaming Industry* in the Dow Jones Sustainability Index for the last two years. Board oversight of the responsible gambling program is provided by the People, Culture and Social Responsibility

Committee. The program seeks to identify early stage signs of problem gambling and help guests to make informed decisions about managing their behaviour.

In the 2018 financial year, The Star contributed \$19.2 million to the NSW Responsible Gambling Fund. Funds are allocated through the NSW Government to support various projects and services that aim to reduce and prevent potential harms associated with problem gambling.

This submission is indicative of The Star's attitude and operational efforts towards regulatory compliance and social responsibility, including a commitment to being a highly compliant, responsible and proactive liquor and gaming-related stakeholder in NSW.

The proposed amendments and issues raised in this submission seek to enhance the casino regulatory environment to facilitate better outcomes for patrons, casino operators, regulators and the State, including the need to secure a fair and competitively neutral regulatory environment. The Star does not consider any of the matters raised are controversial in nature or represent a significant shift in government policy.

Proposed Casino Control Regulation 2019

Part 1 – Preliminary

Clause 3 – Definitions

The term “gaming machine” has been amended to align it with the definition of gaming machines under the *Gaming Machines Act 2001*. It is understood this has been done to clarify that the “player information” requirements under Division 2 of Part 4 of the proposed Regulation also apply to a casino's electronic table games (**ETGs**).

The Star supports the proposed amendment as a sensible responsible gambling measure but seeks clarification that no further implications are intended as a result of the change, including with respect to casino advertising (such as the promotion of table games).

Part 2 – Casino Operator and Casino Employees

Clause 6 – Certain persons not “special employees”

While the accompanying Regulatory Impact Statement (**RIS**) acknowledges the need for certain employees to be subject to a suitability assessment where there is a regulatory need, it remains silent on the factors or circumstances that establish this need. It simply notes there is clear benefit to imposing this requirement on certain employees.

In any case, the long-standing exemption to bar and restaurant attendants under clause 6 of the proposed Regulation shows additional scrutiny is not intended or necessary for staff not involved in gaming, chip transactions or the security or management of casino operations. This position is consistent with the primary objects of the *Casino Control Act 1992*, which seek to ensure gaming is conducted honestly and the management and operation of a casino remains free from criminal influence or exploitation.

The Star is therefore of the view that along with food and drink attendant operations, there are other activities that present little risk to the achievement of the Act's objectives or warrant a need to be licensed. This includes the supervision of liquor sales, attendant duties at The Star's TAB outlet and marketing activities undertaken by back of house administrative staff.

The Star notes that under the terms of its Liquor Licence Agreement, The Star is required to have two approved managers at all times for each separate licensed area who are special employees. As they are ultimately accountable for the lawful and responsible operation of those areas, the need for lower level supervisors to be licensed is considered unnecessary. Clause 6(2) also imposes costs where an attendant is promoted to higher duties in the absence of a supervisor from time to time.

For similar reasons that food and drink attendants are exempt, The Star considers TAB attendants should also be exempt from the need to be licensed. While their duties are related to gambling operations, the risk of them participating in fraudulent activity or transactions is extremely low and mitigated by the nature of bet placements via the online bet slip system and a dedicated Anti-Money Laundering (**AML**) Program, which operates similarly in all other TAB outlets throughout NSW where staff are not required to be licensed or subject to higher levels of scrutiny.

With respect to marketing activities, The Star also contends there is no evidence or reasonable conclusion that can be drawn to suggest back of house administrative staff can affect the integrity of a casino's gaming operations. In addition to specific regulation under the *Lotteries and Art Unions Act 1901*, The Star's marketing activities are controlled via the operation of Internal Controls (*Player Rewards & Promotional Prizes*) and Standard Operating Procedures to ensure these activities are administered with honesty, integrity and fairness.

The Star therefore seeks the addition of liquor supervisors, TAB attendants and administrative marketing staff to the list of employees whose duties exempt them from being defined as a special employee under section 43(1) of the Act.

Clause 8 – Fees for application and renewal of special employee licences

The proposed fee unit model for the application fees is noted. However, The Star has previously raised concern about the substantial \$1,000 application fee currently prescribed for new grant and renewals.

In light of the information outlined below and the fee structures (e.g. \$76.40 for a new licence and \$50.40 for a renewal) currently prescribed in Victoria, which is a comparable jurisdiction, The Star submits there is a need for the fees to be independently reviewed and justified. This review should also take into account the efficiencies that are sought to be realised through a full digitisation of government services in NSW.

In 2013, the NSW Independent Liquor and Gaming Authority (**ILGA**) increased the application fees from \$500 (new applications) and \$250 (renewals) to \$1,000 per application. This was an administrative decision permitted under the Act (as fees could be determined by ILGA and did not have to be prescribed by regulation) and made on the basis of cost recovery. It was also made before the Government's endorsement of the IPART Licensing Framework in 2014, which sought to rationalise the whole-of-government approach to licensing frameworks and appropriate fee setting in NSW.

Notably, IPART's 2014 Final Report into reforming licensing in NSW prioritised the special employee licence as a 'significant' licence framework that would benefit from improvements (in design and administration) in accordance with the Licensing Framework, including the setting of

the fee¹. IPART's assessment was also based on 2012 fee amounts (i.e. when the fees were \$250 and \$500 respectively).

Further, the activities undertaken by ILGA in determining "paper-based" applications at that time were far greater than is presently the case. For example, ILGA formerly conducted one-on-one interviews with each applicant and the person's fingerprints were also taken to inform a further probity assessment.

These activities are no longer conducted by ILGA or Liquor & Gaming NSW (**L&GNSW**) (unless exceptional concerns are identified) and applications are now submitted and processed online, which has arguably achieved a significant improvement in administrative efficiency and cost to the State. While in other instances, the application process has been streamlined to allow a special employee licence to be granted to the holder of a security licence without conducting a suitability assessment.

Notwithstanding this, The Star considers the current framework will not be fit-for purpose, nor distribute cost equitably, in a two-casino environment. While a key objective of the modernisation reforms was to facilitate market entry and competitive neutrality, the extended duration of the special employee licence from 5 to 7 years is likely to impose undue costs on each casino operator.

In particular, this would occur where a special employee obtains their licence through employment with one operator, but then ceases their employment within a short period of time to work for the other operator. In this instance, the latter operator derives a significant proportion of the benefit from the employee's licensing, including substantial cost savings from not having to licence (including renew) that person for a period of time. Instead, those costs would be absorbed by the operator who initially employed the person. A similar outcome would arise where a person is only employed for a short period of time and then ceases employment in the industry, despite the licence remaining valid for a 7-year period.

The Star therefore proposes that the current framework be replaced with an annual licence fee regime, similar to that implemented for gaming-related licensees under the *Gaming Machines Act 2001* (e.g. licensed technicians). This would achieve a better outcome for both operators that is both fair and competitively neutral (a State outcome sought to be achieved by the new Customer Service cluster), while enabling the licensing framework and fees to be established in accordance with the Government's endorsed IPART Licensing Framework. It will provide an opportunity to consider how digital technology can be incorporated into the licensing process, which is another key priority for the Customer Service cluster.

While The Star appreciates this will require an amendment to the Act, it welcomes the opportunity to work with L&GNSW and Crown Sydney in 2019 to develop an appropriate framework, fee structure and potential digital solution in readiness for the proposed reform to be introduced in 2020. This timing would also coincide well with Crown's anticipated entry into the casino market in early 2021.

As part of this process, it would be appropriate to consider the means for retaining existing licence duration periods (i.e. expiry dates) until annual fee payments are commenced in respect to those licences. Consideration would also be sought on the provision of an appropriate credit where the full benefit of that licence period is not realised by one of the casino operators to ensure competitive neutrality is achieved and maintained.

¹ Reforming licensing in NSW – Review of licence rationale and design (Final Report), p505.

Part 3 – Contracts

Clause 12 – Contracts exempt from provisions of Act

This provision prescribes different classes of controlled contracts that are exempt from the need to be scrutinised by ILGA in accordance with section 37 of the Act. Controlled contracts include:

- a contract that relates to the supply of servicing of approved gaming equipment, unless prescribed as being exempt, or
- a contract, or class of contracts, that ILGA considers is materially significant to the integrity of the operation of a casino and declares in writing to be a controlled contract.

The classes of contracts currently prescribed as being exempt include:

- (a) a contract that varies the terms of the period an existing contract is in force,
- (b) a contract that varies the terms of any pricing for an existing contract,
- (c) a contract that varies definitions in an existing contract which does not materially affect the operation of the contract,
- (d) a contract for services provided by a licensed dealer, seller or testing facility,
- (e) a contract for service provided by the holder of a master security licence, and
- (f) a contract for the transfer of gaming equipment between two related casino operators.

The Star considers it would be appropriate to prescribe a further class of contract as being exempt in circumstances where the goods or services provided under an existing contract are changed. The Star submits that scrutiny of the commercial entity will have already been undertaken via the original controlled contract and therefore the need to undertake further investigation is considered unnecessary from a regulatory perspective.

Any potential regulatory concerns about the provision of changed goods and services under an existing contract would arguably be limited to the provision of different equipment, but even then, it would comprise gaming equipment previously approved by ILGA in accordance with section 68 of the Act.

The Star also submits that a similar rationale applies to the variation of the terms of goods and services provided under a materially significant contract and it is The Star's intention to seek ILGA's consideration of this sensible concession.

Part 4 – Responsible gambling practices

Clause 13 – Casino operator's involvement with junkets

The Star notes that most of the provisions relating to the regulation of junkets were removed from the Regulation as part of the Modernisation Review reforms in 2018. Instead, these requirements are now dealt with via Internal Controls to provide a more flexible and risk-based approach to the operation and regulation of junket operations.

While most requirements are now dealt with in this way, this provision has been retained in the proposed Regulation despite significant checks and balances being installed in Internal Controls to promote confidence in the integrity and operation of junkets. This includes probity controls in relation to promoters or notification to L&GNSW where suitability issues arise.

Notwithstanding this, under such an arrangement, the use of a casino operator's licensed staff (i.e. special employees) in the capacity as a representative would further strengthen the integrity of junket operations in accordance with Internal Controls, as well as adherence to commercial arrangements between a casino operator and junket promoter. It is for this reason that the

Modernisation Review queried the need for this requirement, noting it “appears not to add significantly to the scheme of junket regulation”. In addition, by enabling the casino operator to act as an agent of a junket operator, the junket operators would be able to minimise their costs associated with the conduct of junkets, thereby making NSW a more cost-effective location for junket activity.

The Star would however, welcome the opportunity to discuss how any perceived regulatory risks may be addressed further, including via potential amendments to Internal Controls and standard operating procedures.

Clause 15 – Display of information concerning chances of winning prizes on gaming machines

This provision has been amended to remove the prescriptive wording contained within the notice, and the need to display the notice on each individual gaming machine kept within the casino. The Star supports these amendments but seeks the introduction of a transitional period to provide a reasonable opportunity to obtain the new notices once they are approved by ILGA. This will ensure no potential compliance issues arise immediately after ILGA’s approval of the new notice. An example of a previous transitional period is prescribed under subclause 21(6) of the 2009 Regulation.

Clause 19 – Dangers of gambling-notice to be displayed on gaming machines

This provision has also been amended to remove the prescriptive wording contained within each notice, and to provide for the notices to be displayed as a single notice. Importantly, the latter addresses an unintended compliance issue previously raised and The Star therefore supports the change. As sought above, a transitional period is also requested to safeguard against potential compliance issues following ILGA approval of the new notices.

Clause 20 – Gambling counselling services-notice to be displayed

The Star supports the proposed amendments but seeks the introduction of a transitional period as outlined above.

Clause 21 – Signage to be displayed on ATMs and cash-back terminals

The Star notes the prescriptive “Gambling Help” information has been removed from this provision and is supportive of the change. However, there is uncertainty surrounding future compliance with the notice requirements via a permanently visible light emitting display on an ATM or cash-back terminal.

In its proposed form, the provision requires the notice to be in a form approved by ILGA. It then requires the notice to be obtained from L&GNSW unless it is displayed as permanently visible light. When strictly interpreted, uncertainty arises as to how ILGA will approve the form of the notice for the purpose of the light emitting display.

Further clarification is therefore sought as to how this provision is intended to operate and how L&GNSW intend to regulate it, and if necessary, changes made to provide greater certainty. It is also considered that a single notice should be able to be obtained from L&GNSW to comply with this provision.

The Star also requests a transitional period to provide a reasonable opportunity to comply with the new requirements.

Clause 22 – Payment of prize money by cheque

This provision forms part of the broader gambling harm minimisation framework for gaming machines and operates to allow prize winners to consider the redemption of their winnings in the form of a cheque. This option (which is a voluntary decision made by the patron), operates effectively to prevent that person from reinvesting those winnings back into gambling activities because the cheque must be deposited into a financial institution and cannot be immediately redeemed for cash.

Noting the voluntary nature of this provision and its potential to achieve a gambling harm minimisation outcome for the patron, The Star considers there is merit in extending the requirement to prizes won on table games. It is noted that the amended definition of the term “gaming machine” may have the effect of applying it to ETGs. However, the current definition of “total prize money” under clause 3 of the proposed Regulation appears to limit the operation of this provision to gaming machines and would therefore require amendment to achieve the proposed outcome.

Further, The Star considers the payment of prize money should also be permitted to be paid via EFT. While it is acknowledged the transactional speed of EFT may be at odds with the current cheque cashing restriction (e.g. the New Payments Platform is able to facilitate real-time payments to accounts), a decision is still being made to not redeem cash and maximum daily withdrawal limits operate to mitigate risks of immediate reinvestment of funds.

It is also not inconceivable that cheques will become obsolete in the future, given the shifting landscape towards electronic transactions and online banking. It will therefore be necessary to move towards implementation of harm minimisation measures are technologically neutral.

Clause 24 – Requirements relating to prize winning cheques

The Star agrees that the labelling of patron issued cheques is an important and well-founded gambling harm minimisation measure to achieve the outcomes described above. However, the use of the wording “prize winning cheque” may be counterproductive in the context of AML measures.

While reporting obligations exist under AML/CTF law to help authorities detect, deter and disrupt criminal and terrorist activity, and The Star actively assists in facilitating these efforts, the inference of a cheque being a prize may actually encourage money laundering efforts in some instances. It may also have the potential of hindering investigations into such activity.

For example, the ability to redeem money immediately or soon after a deposit into a gaming machine exists and the deposit of those funds, which currently represents a prize, can provide a perceived legitimacy to those funds, where the wording on the cheque may suggest that the money has in fact been won.

Given the intent of informing persons, venues and institutions that the cheque is gaming-related and cannot be cashed, The Star considers a change in wording to “gaming venue issued” or similar would achieve the same outcome while not inconsequentially hindering regulatory efforts.

Clause 26 – Prohibitions on gambling-related advertising

Strictly interpreted, this provision requires The Star to include the “*Think! About your choices, Call Gambling Help...*” statement on all casino advertising, even where the advertising simply relates to the casino’s bar and dining facilities. With reference to the title of this provision, The Star considers this is an anomaly that should be rectified by clarifying it only applies to the advertising of gambling-related services, such as table games and TAB facilities (noting that advertising of gaming machines is prohibited).

The Star operates several bars, including the 24/7 Sports Bar, Jade Rabbit, Rock Lily and Marquee, and casual dining restaurants (e.g. Fuel, Food Quarter and Fat Noodle) within the casino boundary, which attract significant numbers of patrons that do not participate in gambling activities. The need to therefore require gambling-related information to be displayed on social marketing platforms and material that exclusively promotes these services and related entertainment (i.e. non gambling-related services) seems excessive and unwarranted. Notably, this is not imposed on other gaming venues (including large hotels and clubs).

A minor tweak to the definition of “casino advertising” to clarify it is directly related to gaming and gambling-related operations (including TAB and Keno) will address this anomaly. It will also provide greater flexibility when choosing and designing social marketing platforms without impacting responsible gambling or harm minimisation principles. The proposed change is very minor in nature and any advertising concerning The Star’s bar facilities will continue to be subject to liquor promotion guidelines.

Clause 27 – Advertising in relation to gaming machines–exclusions

The Star notes this provision has been amended to prohibit promotional material from being provided to members who are subject to an exclusion order. While the intent of the proposed amendment (i.e. clause 27(2)(g)) is supported by The Star, circumstances exist which warrant further consideration of how it will operate without causing compliance issues for casino operators.

In particular, it would be problematic in a multi-venue environment where orders are able to be made by each respective operator, ILGA or the Commissioner of Police. The most apparent issue to arise is a result of any time lag between the making of an order, the service of that notice on the patron and the subsequent entry of the exclusion order into an operator’s system, including the administrative arrangements to prevent further material from being sent. There is also the potential for material to be inadvertently sent shortly (e.g. within 5 days) after an order is made, particularly on a weekend when administrative staff generally do not work.

Additionally, due to very nature of maintaining databases, which are prone to containing errors and duplicate entries of members in different formats, it is possible a duplicate entry may not be detected and removed in the first instance. It is also possible for patrons (including partners) to share the same initial(s) and surname and have recorded addresses that are not easily detected (e.g. P.O. Boxes). While most entries are easily distinguished by their membership number, these numbers could also be recorded inaccurately in some instances and this would be potentially problematic to immediately rectify.

The Star therefore requests the sub-clause be amended and written in a manner that allows for some level of discretion to be applied where it can be demonstrated that all reasonable efforts were made to prevent the breach from occurring, to take account for inadvertent breaches similar to those outlined above. An example of the approach that could be considered is

prescribed under section 100E of the *Casino Control Act 1982 (QLD)*, which operates with the intent of the proposed amendment but with a level of flexibility to enable discretion to be applied.

The Star also suggests that sub-clause 27(2)(f) be amended to clarify that electronic records may also be maintained.

Clause 29 – Publicity for prize-winners

This provision operates to prevent a casino operator from publicising details that identify a person who wins more than \$1,000 on a gaming machine and requests the operator to not disclose their identify. However, The Star considers this provision is outdated and no longer necessary.

For example, the use of personal information is regulated under the *Privacy Act 1988* via the Australian Privacy Principles (APP). In particular, APP 6 (Use or disclosure of personal information) outlines the circumstances when and how information is able to be disclosed. In the context of the publicity of prize winners for marketing purposes, the principles require an individual's express consent, as the disclosure of these details would amount to a secondary purpose (i.e. marketing purposes).

Part 6 – Miscellaneous

Clause 46 – Gaming equipment

In a similar manner to the risk-based approach adopted towards notification of minor matters in Internal Controls, The Star considers this requirement should also be amended to provide for the provision of a report on request. It is noted however, that no direction has previously been given by ILGA with respect to these requirements and consideration should therefore be given to repealing this provision.

Clause 52 – Casino supervisory levy

The Star notes that redundant sub-clauses have been removed from this provision and the supervisory levy amount adjusted and specified for the 2019-20 financial year. However, The Star draws attention to the fact that the levy is not been applied to Crown's Restricted Gaming Facility and submits that reconsideration is necessary in light of the events of the past few years.

A key objective of the levy and primary reason why it was introduced in 2013, was to assist in meeting the costs of maintaining the casino regulatory regime, as opposed to making taxpayers continue to bear those costs. It was predicated on the fact that a casino environment is a dynamic one and regulators are required to regularly review and adjust their approach to address emerging risks and maintain public confidence in the regime. At the time of introduction, the levy applied to all casino licences within the jurisdiction.

In this regard, The Star notes that since the Government entered into an agreement with Crown to allow the development and operation of a Restricted Gaming Licence (which is a casino licence for the purposes of the Act), a significant amount of regulatory activity has been undertaken to facilitate its entry into the market. This is despite it being excluded from having to bear these public costs which have arisen through, but not limited to:

- a comprehensive review of the NSW casino regulatory and legislative framework (i.e. Casino Modernisation Review),
- development and implementation of the *Casino Control Amendment Act 2018*,
- a complete rewrite of the Internal Controls applying to both casino operators, and
- the current process involved in remaking the *Casino Control Regulation 2019*.

The Star understands that the current exclusion of Crown's facility from the levy was reasonable, given that the property was effectively a construction site and no casino was operating. However, the levy applied to the Restricted Gaming Facility licence until 2014 when the government proactively took measures to ensure through regulation to temporarily exclude the facility during its construction. This should now be reconsidered.

Given the substantial cost burden to the State of commissioning a new casino property, it is not unreasonable to expect that Crown should in fact be liable to pay a proportion of the levy on and from the 2019-20 financial year. In the absence of equitable sharing of the levy, The Star submits that the entire regime will need to be revisited as it would be highly extraordinary and generate a distinct competitive disadvantage to The Star to have one licence holder effectively subsidising the regulatory effort for both competing properties.

Schedule 2 – Description in minor change in state of affairs of a casino operator

Section 6 – Threshold for sale of a casino operator's assets

In accordance with section 35(1) of the Act and clause 5 of the proposed Regulation, The Star is required to notify ILGA of any minor change in the state of affairs within 14 days. Among other things prescribed under Schedule 2, a minor change in affairs includes the sale of the casino operator's assets if the sale exceeds \$310,000 or the asset is valued at more than \$310,000.

The Star contends that this threshold amount is outdated and unnecessarily captures the divestment of insignificant assets that would be of little concern to a regulator. For example, the current threshold would capture items such as non-gaming-related property equipment, furniture and fittings, as well as artworks and artefacts presently valued individually at more than \$310,000. It would also capture, if divested as a package, certain cage equipment and IT assets unrelated to securing the integrity of casino operations.

The Star suggests a more appropriate threshold would represent \$1 million, which would capture specific items of value and potentially regulatory interest, as well as the combined divestment of assets in a single transaction. In addition, it is noted that provisions already exist which require notification and approval of the sale of gaming-related assets and as such, this requirement does not contribute to or increase transparency surrounding the divestment of these assets.

Schedule 6 – Applied modified provisions of *Liquor Act 2007*

Section 6 – Exemptions from Act (Take away liquor)

The Star is currently restricted from selling or supplying takeaway alcohol under its liquor licence, unless the alcohol is sold and supplied to hotel residents with a meal (and limited to 2 litres per day). These restrictions are prescribed under section 10 of Schedule 6 of the proposed Regulation and as a condition of The Star's liquor licence (condition 4.11 of licence #24005284).

The Star is seeking a relaxation of this restriction to enable NSW casino operators to provide take-away alcohol to non-Australian residents, including International Premium Players, so as

to allow these guests to purchase alcohol, or be supplied with alcohol as a gift, to mark or as a reminder of their visit – it is not intended for consumption in NSW.

The ability to provide high-end and comparative services to International VIPs would help us to compete within the domestic and international casino market. The importance of competition is well recognised by government and has been facilitated to date via the ability to allow smoking and more recently, the provision of credit to International customers in private gaming rooms.

The Star notes it may be possible to utilise the exemption provisions section 6 (1)(l) of Schedule 6, in addition to seeking an amendment to the conditions of our liquor licence from ILGA. To boost regulatory certainty and confidence and manage any perceived risks associated with the proposed service, The Star would also propose working with L&GNSW and Crown to develop appropriate Internal Controls to mitigate those risks or other concerns.

Section 92 – Control of business conducted on licensed premises

The Star notes this provision has been amended to align it with the corresponding “shopping centre exemption” in the *Liquor Act 2007* via the addition of subsections 92(3)-(4) of that Act. These provisions were introduced in late 2009, following the commencement of the current *Casino Control Regulation 2009*, to insert a special provision for shopping centres that allows a number of tenants to sell and supply alcohol under one liquor licence, subject to ILGA approval.

As highlighted in the RIS, the intent is to provide multiple lease holders (i.e. food court outlets) the opportunity to sell alcohol for consumption within a shopping centre’s communal food court area, which would include The Star’s café court. The Star supports this approach and notes that appropriate RSA and security procedures would be in place to reduce the risk of alcohol-related harm.

However, the present wording of subsection 92(3) of the proposed Regulation may not work to achieve the intended outcome. The Star considers a slight modification to the wording, the precise form of which would enable it to apply to a person who owns, leases, or subleases all of the premises within the shopping centre. A possible wording of the exemption could be (our emphasis added):

(3) This section does not prevent a person who:

(a) is the licensee of any premises that are situated in a shopping centre, and

(b) is either the owner, or in the case of a casino is the lessee, sub-lessee, licensee or sub-licensee of each of the premises comprising the shopping centre;

from leasing, subleasing, licensing or sub-licensing, with the approval of the Authority, any part of the licensed premises on which liquor is sold or supplied for consumption on the premises.

(4) The person to whom any such part of the licensed premises is leased or subleased in accordance with subsection (3) is, for the purposes of this Act, taken to be an agent of the licensee.

The Star notes the slight modification shown above will:

1. reflect the fact that the casino operators may be the head lessee rather than the owner of the premises;

2. allow flexibility in the administration of the retail component of the casino environs by permitting this area to be sublet to (and thereby operated and managed by) a subsidiary or third-party entity. Historically, the outlets in the retail precinct have been sub-leased by Sydney Harbour Casino Properties Pty Ltd, which is a related entity of The Star Pty Limited (the licensee). Accordingly, a division between the roles of managing and operating the casino itself, as opposed to the retail precinct, may be considered appropriate given the distinct nature of and separate business models for these two areas; and
3. allow ILGA even greater control of the retail precinct liquor licence, as any breach of liquor licence obligations would potentially give rise to recourse against the lessee of the Café Court area (The Star or its subsidiary or third party) and the retail operator responsible for the sale of liquor from the licensed premises.

Section 134 – Terms of local liquor accords

This provision operates to enable local liquor accords to introduce restrictive liquor practices on member venues where such motions or resolutions are passed via a majority vote. While the risk of this outcome impacting The Star's licensed venues may not be high, The Star's liquor accord membership is required by licence condition and the possibility this could occur is therefore a real one.

The Star is the most highly regulated venue in the State and significant legislative powers already exist to enable regulators (L&GNSW and ILGA) to take action where incidents, concerns or issues arise that warrant consideration of further regulatory action (e.g. the imposition of licence conditions). The Star therefore requests that safeguards be established to require any resolution by a local liquor accord that impacts on the operation of a liquor licence held by a casino operator, to be approved by ILGA and The Star, particularly in light of The Star's agreements with the Government.

July 2019