

WESTERN CAPE GAMBLING AND RACING BOARD

Southern Cape Casino Development Project

*Report on the achievement of undertakings in respect of Empowerment
by Pinnacle Point Casino (Pty) Ltd ("PPC ") released by the Social
Equity Committee of the Western Cape Gambling and Racing Board*

AMBIT OF REPORT:

This Report traces the measures adopted by the Social Equity Committee ("the Committee") of the Western Cape Gambling and Racing Board ("the Board") to monitor and ensure the delivery of all empowerment undertakings made by the holder of the Southern Cape casino operator licence, PPC, in its bid documentation. As such, the report sketches the emphasis placed on empowerment initiatives and undertakings as a cornerstone of the licensing process in this Province, their articulation in the Policy Determinations developed by the Provincial Cabinet, their status as key criteria for the evaluation of licence applications in the Board's Request for Proposal ("RFP"), the role played by such considerations in the evaluation of the various applications and their eventual incorporation into the conditions of the relevant licence.

In addition, this report focuses on the origins and constitution of the Committee, its functional parameters and approach and the nature of the investigations conducted at its instance, as well as the findings made by it at the conclusion of the construction phase of the casino component of the Project.

THE POLICY DETERMINATIONS:

A number of the Policy Determinations developed by the Provincial Cabinet stress the pivotal importance of the goal of empowerment of previously disadvantaged persons (“PDI’s”) in the licensing process in this Province. Relevant extracts from the Policy Determinations read as follows:

“1.2 The Board shall, when considering applications for casino operator licences, have regard to the following:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) the applicant's contribution to the empowerment of local disadvantaged groups in this Province through both employment and equity ownership;
- (f) the degree of employment by the applicant of local professional consultants, construction entities and contractors from the emergent sector in this Province;
- (g) the number of new casual and permanent jobs to be created on-site in the casino and all its ancillary facilities;
- (h) the envisaged degree of employment by the applicant of staff from this Province for all aspects of the operation;
- (i) the programmes envisaged by an applicant to train his or her staff to enable them to progress within the operation;
- (j) the location of the casino and the compatibility of the proposed site with the relevant planning and development policies for the area, with due regard to its accessibility to all sectors of the community, and
- (k) the extent to which sustainable community facilities and the provision of tourism infrastructure will be provided.”

THE RFP AND ADJUDICATION PROCESS

The above criteria were in turn incorporated into the RFP, so that all applicants could be fully apprised of the degree to which empowerment considerations would play a role in the eventual allocation of the licence. In the Board's eventual adjudication of the various applications received, emphasis continued to be placed upon the importance of the extent to which proposals made by the applicant contributed towards the realisation of the community benefits sought by the Board.

The concept "community benefits" included the following key sub-criteria:

- Employment opportunities (opportunities for local employment, including direct and indirect, temporary and permanent, arising out of the development).
- Employment Mix (Projected composition of employees for whom provision is made, including provision for gender and the disabled).
- Social Impact (Mitigation of the negative potential social impacts of a casino development on neighbouring communities).
- SMME's (The degree of promotion of small, medium and micro businesses in the Region).
- Involvement of previously disadvantaged communities in the development through investment and ownership.
- Training (Training of employees, with due regard to employment mix, at various levels of employment).
- Problem Gambling (Awareness of and steps to be taken to mitigate the potential negative impact of the casino, such as education and rehabilitation).

The above criteria were taken into account by the Board in its evaluation of the application submitted. In consequence, it was acknowledged to be of great importance to ensure that all undertakings made in respect of empowerment, as in the case of other key areas of the project, would be honoured. This was achieved by way of the incorporation of these undertakings, by reference thereto, into the eventual licence conditions.

CONDITIONS OF CASINO OPERATOR LICENCE AWARDED TO PPC

In accordance with the observations made above, Condition 20 of the casino operator licence issued to PPC stipulates as follows:

“20. All commitments and undertakings made by the licence holder in respect of the empowerment of previously disadvantaged persons or communities, both in its bid documentation, and any amendments or supplementations thereto approved by the Board or agreed to between the licence holder and the Social Equity Committee of the Board (as ratified by the full Board) subsequent to the lodgement of its Proposal shall be adhered to by the licence holder and monitored through a regular people’s audit.”

The purpose of the above condition was to ensure that compliance with empowerment undertakings made by the licence holder could be enforced. It was also recognised that, in view of the extensive and detailed nature of the undertakings made, it would be necessary to constitute a committee, the purpose of which would be to monitor the implementation of the relevant undertakings, to conduct audits designed to quantify levels of compliance and to deal with queries and concerns which might arise as well as all other matters germane to the delivery of the empowerment undertakings. In accordance with the above objectives, the following further conditions were inserted into the relevant casino operator licence:

- “22. The Board shall establish and the licence holder shall fund, monitoring committees between itself, the Board, the relevant local authorities and such other parties as may be appropriate, in order to monitor the implementation of the Project components and the developmental conditions. These committees shall meet on a regular basis once the licence has been issued and shall function under the chairmanship of a person nominated by the Board.**
- 23. All reasonable costs incurred by the Board in evaluating and monitoring the progress and completion of the Project shall be for the account of the licence holder, pursuant to the provisions of section 12 (22) of the Law, provided that the Board shall consult with the licence holder on a regular basis with a view to ensuring that such costs are not excessive or inappropriate.”**

The above conditions ensured that meaningful monitoring of the delivery of empowerment undertakings could take place.

ESTABLISHMENT, COMPOSITION & FUNCTIONS OF THE COMMITTEE

In accordance with the provisions of Condition 22 of the licence, the Board established a Social Equity Committee, funded by the licence holder pursuant to Condition 23. The functions of this Committee are to monitor and evaluate compliance with the empowerment undertakings of licence holders, bearing in mind the fact that it is of importance to ensure not only that the quantitative elements of the empowerment undertakings, such as the targets set, are met, but also that the qualitative aspects bear up to scrutiny. In this regard, for example, it is important to ensure that empowerment initiatives are meaningful in terms of nature and content, are accessible, are as broad-based as possible and in fact have the effect for which they were designed.

The Committee, which incorporates a number of Board members, certain staff members and representatives of the relevant licence holder, meets on a regular basis and addresses itself to progress made in respect of a number of issues. Its agenda is largely generic in

nature with every meeting addressing the listed topics, and information being updated and discussed on a regular basis. Agenda items typically include an assessment of progress made in respect of key areas of concern. Attention is accordingly focused on, *inter alia*, the extent to which the development has created accessible employment opportunities for Affirmable Business Enterprises (“ABE’s”) and Small, Medium and Micro Business Enterprises (“SMME’s”), created structures enabling such opportunities to be maximised, the extent to which concession and other opportunities in the Project have been made accessible to Previously Disadvantaged Persons (“PDI’s) or Entities and the degree to which empowerment has been achieved through training and related measures.

The above procedure enabled all parties to remain focused on the realisation of the many empowerment benefits which the Project has to offer in a spirit of mutual co-operation.

MEETINGS OF THE COMMITTEE

The Committee originally commenced its formal functioning on 11 November 1999, before the final grant of the licence issued in respect of the Cape Metropole. At this juncture, the Committee focused its energies on developing a protocol for its future functioning and seeking unanimity as to the parameters within which it would operate.

After a number of initial meetings, consensus was reached on the format for future meetings, the status and functioning of the Committee, the extent of its decision-making authority, its manner of reporting to the Board and, crucially, the manner in which compliance by the licence holder with empowerment deliverables could meaningfully and effectively be monitored by the Board.

Initially, the Committee conducted formal meetings at least once every month, and continues to meet regularly. However, contact between the licence holder and the office of the Board in respect of empowerment issues is not confined to such meetings. Ongoing interaction between the office of the Board and representatives of the licence holder is

required and maintained in order to ensure that the Board remains up to date with all developments affecting compliance with empowerment deliverables. Thus, in instances where the office of the Board receives feedback or queries from individuals regarding aspects of the licence holder's empowerment structure or its *modus operandi* in executing the policies ascribed to by it, these are immediately referred to the licence holder for its comment. All the relevant documentation is then placed before the Board component of the Committee for its consideration and decision. So, also, the licence holder is required to submit a quarterly report following the format of the generic agenda in advance of each meeting to enable the Board component of the Committee to familiarise itself with the issues to be raised at the meeting and so to facilitate meaningful interaction between the parties.

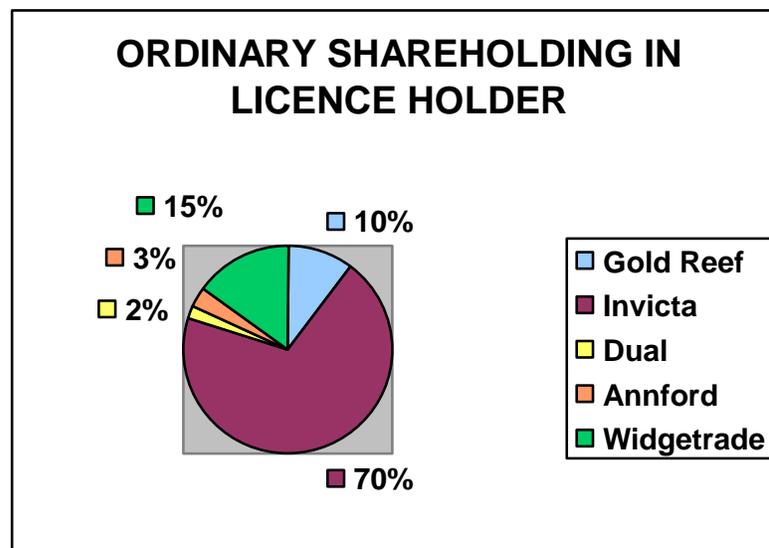
A representative of the Board's office has also regularly visited the offices at which statistics and records in respect of the evaluation, selection and appointment of empowerment sub-contractors and suppliers, the work performed by them, the value thereof and their payment are maintained, for the purpose of conducting audits aimed at verifying the monthly statistics furnished to the Committee by the licence holder. These are physical audits entailing a thorough examination of all records kept, invoices submitted and payments made to PDI's and ABE's. This approach enables the Committee to quantify the licence holder's compliance with the targets set by it on an ongoing basis, while the perusal of records relating to the manner of evaluation and selection of suppliers and sub-contractors enables the Board, through the Committee, to monitor the extent to which the empowerment undertakings of the licence holder are being achieved on a qualitative level. The cumulative statistics gathered by way of this process, and thus the licence holder's compliance with the targets set, will be addressed and analysed in detail at a later juncture in this report.

In addition, the Board has also conducted site visits involving physical inspections of all relevant facilities.

EMPOWERMENT UNDERTAKINGS MADE BY THE LICENCE HOLDER

The empowerment objectives set and undertakings made by the licence holder are comprehensively set out in its bid documentation. Specific undertakings are made in respect of shareholders, employees and suppliers of the licence holder on the one hand and members of the community on the other. This report will briefly outline the key deliverables identified in the bid, but it must be stressed that the areas covered by this report are not exhaustive.

In respect of shareholders, the licence holder has committed to an equity investment structure designed to assist historically disadvantaged shareholders to procure equity with the minimum of financial exposure. In this regard, 15% of the existing shareholding in the licence holder is in empowerment hands. In respect of its ordinary shares, PPC is held as to 10% by its casino operator, Gold Reef Resorts Ltd (“Gold Reef ”), as to 70% by Invicta Bearings (Pty) Ltd (“Invicta”), as to 2% by Dual Intake Investments (Pty) Ltd (“Dual”), as to 3% by Annford Investments (Pty) Ltd (“Annford”) and as to 15% by a Southern Cape-based empowerment company, Widgetrade (Pty) Ltd (“Widgetrade”). The current shareholding in the company can be graphically portrayed as follows:



Over and above its equity structuring, the licence holder has committed to a series of measures aimed at community empowerment through an Employment Equity Plan, and one of the conditions of the licence is that a minimum of 80% of the employment opportunities in the Project (both in respect of the construction and the operational phase) be assigned to persons from the Southern Cape Region or the Western Cape.

Furthermore, in respect of procurement, it was agreed between the Board and the licence holder that a minimum of 30% of the work performed during the construction phase of the Project would be allocated to PDI's and ABE's.

MONITORING IMPLEMENTATION OF EMPOWERMENT DELIVERABLES

The specifics contained in the bid documentation and the licence conditions, such as targets (whether numerical or percentile) and budgetary commitments are quantitative elements of the empowerment undertakings made in the original bid of the licence holder which the Committee is able to monitor on an ongoing basis. Thus, the Committee has, for example, throughout the construction phase of the development, closely monitored the licence holder's compliance with the affirmative procurement target of 30%.

Apart from the quarterly reports which the licence holder is required to furnish in this regard, representatives of the Board have made physical visits to the premises on which all relevant documentation is kept. The credentials of the business entities or persons to whom work has been allocated have been examined to determine whether they qualify as empowerment entities or individuals. Audits have been performed to ensure that the amounts reported to have been expended on affirmative procurement are accurate, that invoices matching such amounts have been presented to the licence holder by the relevant persons or entities, and that such amounts have been paid over within a reasonable time.

In calculating the extent to which recognition would be given to the participation in the construction of entities in which there was an empowerment shareholding, the Board

determined that where an entity had genuine empowerment credentials, credit would be given for the full contract sum. In this sense, “empowerment credentials” means:

- *in the case of a natural person, a person who is part of the group defined as “black people” in the Employment Equity Act, Act 55 of 1998, or*
- *in the case of a legal person, any corporate entity recognized by law in respect of which “black people”, as defined in the Employment Equity Act, Act 55 of 1998, hold a financial interest of at least 50%.*

Therefore, where an entity with empowerment credentials, as defined above, performed work, the full value of the contract was taken into account for the purposes of the social equity audits and correspondingly, the calculation in respect of compliance with the licence condition. However, where an entity was held as to less than 50% by the persons described above, the value which was taken into account in respect of work done by that entity was commensurate with the percentage to which the entity was empowerment owned. Thus, if a contract value was R10 000 and the entity to which it is awarded was held as to 30% by empowerment persons or entities, the value allocated for the purpose of the audits was R3 000.

In conducting the audits, the Office of the Board referred to the following documentation:

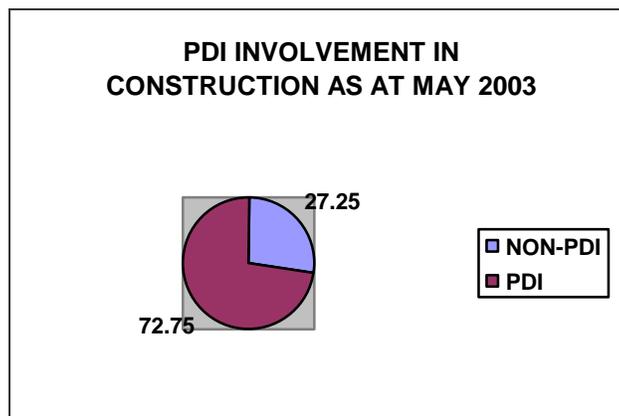
- Documents of incorporation in respect of any business with empowerment credentials to whom work was allocated. In the case of a close corporation, for example, a copy of the founding statement of the cc would be required, in which the membership interests of the various members is specified.
- All invoices submitted by empowerment business entities during the course of construction.
- Copies of cheques (preferably cross-referenced with invoice numbers) paid over to empowerment entities in respect of the above invoices.
- Where empowerment-based domestic sub-contractors (service providers and suppliers) were selected pursuant to a tender process, ABE declarations from

tenderers, indicating that the relevant entities were empowerment owned at least to the extent specified above, were required. Where this documentation was not available, other documentation was required, such as affidavits, sufficient in value to satisfy the Office of the Board that the current parties in the relevant businesses were previously disadvantaged persons.

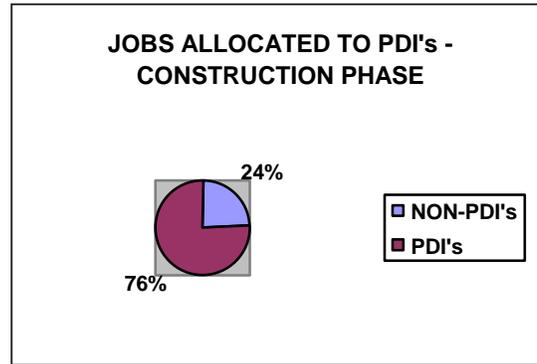
The audits were also structured in such a manner as to ensure that the amounts paid out to empowerment entities corresponded with the amounts reported to the Social Equity Committee of the Board.

The tables furnished below provide statistics in terms of certain (although not all) key deliverables of the PPC empowerment undertakings which have been monitored on an ongoing basis by representatives of the Committee. The figures actually achieved are measured against the targets set in the bid or stipulated in the licence document itself to determine the level of compliance with the empowerment objectives set by the licence holder and, correspondingly, compliance with the conditions of the casino operator licence issued to the company.

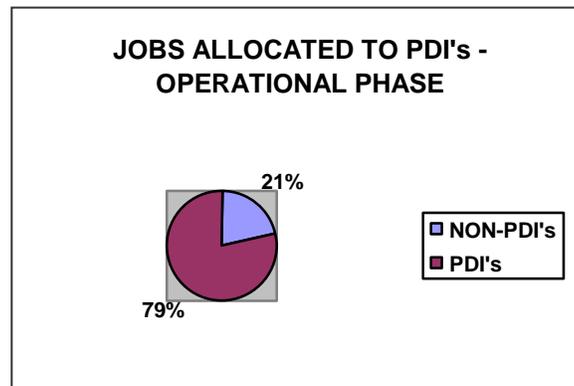
In respect of the level of involvement of PDI's and ABE's in the construction performed to date, a final audit conducted by the Office of the Board in May 2003 revealed that, of the total construction cost incurred of R37,804,279,17, PDI's have performed work to the value of R27,522,306,01, which, as is indicated by the table below, amounts to 72,75% of the total work performed.



The table shown below further illustrates the fact that, of 336 jobs created during the construction phase, 257 were allocated to PDI's, signifying that 76% of the total jobs created during the construction phase were taken up by PDI's.



An analysis of the job-creation statistics in respect of the operational phase of the Project reveals that of a total of 247 jobs created by the development to date, 195 have been allocated to PDI's, amounting to 79% of the employment opportunities created, as is shown below:



It is important to note that of the above 247 jobs, 220 (or 89%) have been filled by local employees. Of the 186 jobs currently filled in the casino alone, 159 (or 85%) have been filled by local employees, while 135 (or 72%) have been filled by PDI's. These statistics

In addition, a further 36 employees (of whom 25, or 65% were PDI's) received tables training during the first quarter of 2003.

In addition to the above, the Committee monitors the allocation of concession opportunities and outsourced services in the Project to individuals or entities having PDI representation. In this regard, concession opportunities have been awarded in respect of an amusement facility, a sweet vendor and a restaurant. The sweet vendor is 100% PDI owned, while an arrangement is currently being finalised in terms of which a 15% financial interest in the restaurant will be transferred into empowerment hands.

In respect of outsourced services, the security function has been outsourced and, of the 30 positions filled, 29 (or 97%) have been filled by PDI's. In respect of the cleaning services, all 15 positions which have been filled as part of this outsourcing initiative have been filled by local PDI's. The casino tollgate function has similarly been outsourced, with local PDI's accounting for 100% of the 16 employment positions now filled.

MONITORING OF QUALITATIVE ASPECTS OF EMPOWERMENT

By far the greatest challenge facing the Committee was the formulation of an approach designed to ensure that the qualitative aspects of the implementation of empowerment undertakings were satisfactory. In this regard, it must be acknowledged that the overriding aim was to mould an approach which maintained the correct balance between ensuring formal compliance with licence conditions, on the one hand, and ensuring that the *manner* in which compliance was achieved passed muster.

The Committee was alive to the fact that, while it had a responsibility to the community to ensure that empowerment of the broad-based nature promised took place, it could not unduly interfere in internal decisions made by the licence holder which *prima facie* fulfilled the conditions spelled out in the licence.

However, in the case of all holders of casino operator licences in this Province, the Committee dealt with queries as to the qualitative achievement of empowerment undertakings when these were raised. These were approached on the basis that, provided the above procedures, fairly and objectively applied, yielded a result which did not entail any breach of the conditions of the licence, it would not be within the province of the Committee to second-guess the decisions of the licence holder in allocating opportunities.

The above approach was used by the Committee in responding to queries which arose as to aspects of the implementation by the licence holder of its empowerment undertakings. The procedure developed in respect of complaints or queries was that these would, upon receipt thereof, be forwarded to the licence holder for its comment, after which the original complaint or query, together with the feedback received from the licence holder, would be placed before the Board component of the Committee for its consideration and decision.

In general, it was found that the principal sources of unease with the implementation of empowerment opportunities in respect of the various Projects originated in the following unavoidable facts:

- the projects did not offer limitless empowerment opportunities,
- inevitably certain empowerment role-players would benefit from the opportunities available while others would not,
- empowerment persons or entities therefore effectively competed with one another for individual opportunities, and
- not all empowerment entities had access to the funding and/or resources which would be required, for example, to comply with the standards set by the licence holders for the allocation of concession opportunities in the Projects.

The Committee dealt with each query or complaint on its individual merits. Only one such query was directed to the Board in respect of the relevant development, and was satisfactorily addressed. There were no instances in which non-compliance with the conditions of the licence, as spelled out above, were identified, either independently or in consequence of the query or a complaint.

PROBLEM GAMBLING

Condition 3 of the licence issued to PPC reads as follows:

- “3. The licence holder shall participate in the National Responsible Gambling Programme (“the NRGP”) currently in force in South Africa, shall subscribe to the Industry Code of Conduct in respect thereof, shall contribute towards the funding of the NRGP in such equitable measure as may be determined with reference to the contributions required from the holders of other similar licences, whether in the Western Cape individually or on a national basis, and shall implement such other measures regarding the issue of problem or compulsive gambling, the training required in respect thereof and rehabilitative measures in relation thereto as may be stipulated by the Board from time to time.”**

Accordingly, PPC currently participates in and contributes towards the funding of the National Responsible Gambling Programme which was initially spearheaded in the Western Cape, and which, in the view of the Board, presents the most complete and extensive set of measures designed to react meaningfully and purposively to the issue of problem gambling. These measures, for which extensive provision has been made in the programme, include the following:

- Education (of staff, patrons and the general public) & training
- Counselling & Treatment

- Sponsoring of Research
- Provision of collateral material, e.g. brochures, posters, notices on cash desks and on gaming tables
- Programme and Help line on all gambling-related advertisements
- National Help Line
 - 24 hours per day, 7 days per week
 - Toll free
 - Hosted at the Kenilworth Place Addiction Treatment Centre
 - Answered by specially trained counsellors
 - Referral for initial comprehensive assessment by clinical psychologist
 - Costs borne by Casino Operator
- Out-patient Counselling
 - Clinical psychologists in 5 major centres
 - Psychologists trained at Kenilworth Place
 - Customised 6-session treatment programme paid by Casino Operator
- In-patient treatment
 - Severe cases
 - 3 centres
 - Costs covered by most medical aid schemes and also subsidised by the Casino Operator, if necessary
- Self-exclusion policy

Since these measures must be, and have been, implemented on a large scale in this Province pursuant to the relevant licence conditions, and because the Board is of the view that both the interests of the industry and those of the general public would be best served by the uniform application of the same programme throughout the Western Cape, the Board spearheaded an initiative to make provision for a provincially co-ordinated approach, requiring all holders of casino operator licences in this Province to make a financial contribution towards the Programme, thus preventing the unnecessary duplication of resources available to the public and presenting a unified front in respect of the issue. Accordingly, the licensee actively participates in the Programme and makes a

financial contribution in respect thereof. This programme now runs under the auspices of the National Responsible Gambling Programme, rather than under the banner of any single operator.

FURTHER MEASURES:

In the interest of ensuring continued empowerment representation in the licence holder, the Board has also required the licence holder to effect an amendment or addendum to its existing shareholders' agreement, stipulating that –

- in the event that the sale of the company is contemplated, every reasonable effort will be made to maintain the shareholding to be allocated to empowerment persons or entities at a minimum of 15% of the total equity in the company,
- in the event that there are any further shares issued in the company, at least 15% of the shares so issued will be allocated to empowerment persons or entities, and
- in the event that the holders of the 15% shareholding in the licence holder provided for in the bid to be held by empowerment persons or entities at the date of issue of the licence, are desirous of selling such shareholding or any portion thereof, or receive an offer of purchase in respect thereof from a non-empowerment person or entity, the shares proposed to be sold, or in respect of which the offer has been received, shall first be offered to an empowerment person or entity on terms no less favourable than those pertaining to the proposed sale, before the shareholding in question is disposed of. Before such sale is concluded, the proposed sale transaction will be submitted to the Board for approval, which shall not be forthcoming unless the Board is satisfied that the procedure contemplated in this paragraph has been complied with.

The licence holder has duly effected the above amendments.

CONCLUSION

The Committee is satisfied that, as at the date of this report, PPC has thus far complied with all the conditions of the casino operator licence issued to it in respect of the implementation of the empowerment undertakings contained in its bid. The Committee's views in this regard have been ratified by the full Board. Notwithstanding the above, it is readily acknowledged that some of the empowerment undertakings made in the bid will be realised only over the medium to long-term, and the Board will monitor this process to ensure that it conforms in all respects, with the undertakings made in its bid by the licence holder and with the conditions of the licence.

As such, the Committee will remain in place and continue to exercise its monitoring function, albeit on less intensive and regular a basis. Further reports will be issued tracking the results of this ongoing process.

SIGNED by the members of the Social Equity Committee of the Board on this day of, 2003.

DR J HAMILTON
CHAIRPERSON

PROF. L DE VRIES
COMMITTEE MEMBER

MR D BURTON
COMMITTEE MEMBER

RATIFIED by the Western Cape Gambling and Racing Board on this day of
....., 2002.

D W AURET

CHAIRPERSON

WESTERN CAPE GAMBLING AND RACING BOARD