

**IN THE MATTER** of the Gambling Act 2003  
**AND** on a review by the Gambling Commission of the charitable trust licence conditions attached to the casino venue licences for the Auckland, Hamilton, Christchurch, Dunedin, Queenstown and Wharf Casinos

**BEFORE THE GAMBLING COMMISSION**

Members: L M Hansen (Chief Gambling Commissioner)  
S C L Pearson  
S Hughes QC  
W A Acton  
S T Shaw

Date of Notice: 18 November 2021

Date of Decision: 8 April 2022

Date of Notification  
of Decision: 3 May 2022

**DECISION ON A REVIEW BY THE GAMBLING COMMISSION  
OF THE CHARITABLE TRUST LICENCE CONDITIONS ATTACHED THE  
CASINO VENUE LICENCES FOR THE AUCKLAND, HAMILTON, CHRISTCHURCH,  
DUNEDIN, QUEENSTOWN AND WHARF CASINOS**

**Introduction**

1. In April 2021, the Gambling Commission gave notice of its intention to undertake a review of the charitable trust licence conditions attached to the six New Zealand casino venue licences. The Commission undertook the review in two stages, with the first stage concluding in 2021 and resulting in decision GC18/21. In that decision, the Commission determined as follows:
  - (a) Apart from the amendment described in (b) below, it would not propose co-ordinated amendments to the charitable trust licence conditions for the six casinos in order to achieve uniformity. Instead it would address each casinos' charitable trust licence conditions individually in the course of anticipated licence renewal applications in the future.
  - (b) It would propose co-ordinated amendments to the charitable trust licence conditions for all six casinos with a view to requiring them to increase the amount of information which they are required to report publicly concerning the operations and distribution decision making of the associated independent charitable trusts.

- (c) It would propose an amendment to the charitable trust licence conditions for Christchurch Casino in order to reflect changes made by the Commission to the charitable trust licence conditions for the Auckland Casino (see decision GC18/19) after the earlier renewal decision for Christchurch Casino.
2. In November 2021, the Commission wrote to the parties who participated in the first stage of the review to advise that it was commencing the second and final stage. In doing so, the Commission proposed, pursuant to section 139(1)(e) of the Gambling Act 2003 (the "Act"), to amend the charitable trust licence conditions for all six Casinos in the manner contemplated in paragraph 1(a) above. This decision concerns that proposal.
3. The Commission separately proposed to amend Christchurch Casino's charitable trust licence conditions in order to align them with the equivalent licence conditions for the Auckland Casino, in the manner contemplated by paragraph 1(c) above. The Commission's decision on that proposal is the subject of a separate Commission decision, GC06/22.

### **Proposed amendments**

4. The Commission proposed amendments to the charitable trust licence conditions for all six Casinos, pursuant to section 139(1)(e) of the Act. The relevant licence conditions, with the proposed amendments shown in mark-up, are as follows:

#### *Auckland Casino*

16. ~~The Licence Holder is required to ask the Trust to provide it with the information set out in condition 17(b)-(e) below, a list of persons granted funding for the previous year and in what amount, and a list of unsuccessful applicants for funding. The Licence Holder is required to publish annually the amount paid to the Trust, and the information provided to it by the Trust relating to the allocation of funds, as specified in this condition.~~
17. The Licence Holder must maintain a dedicated web presence that makes information about the Trust publicly available. At a minimum, the web presence must contain the following information:
- (a) the Trust deed;
  - (b) details of the Trustees and a brief summary of their background;
  - (c) information about how to apply for funding from the Trust, including contact details;
  - (d) the process that the Trust follows when dealing with complaints about the distribution of funding;
  - (e) distribution information in respect of each financial year, commencing from the year ending on 31 March 2022, namely:
    - (i) the amount received by the Trust;
    - (ii) the amount available for distribution;
    - (iii) details of all distributions, including details of the recipients, their location, and the amount distributed to each;
    - (iv) details of all unsuccessful applications and the sums sought by each;
  - (f) if the Trust has failed to provide any of the information requested under condition 16, a statement identifying what has not been provided.

### Hamilton Casino

15. ~~The Licence Holder is required to ask the Trust to provide it with the information set out in condition 16(b)-(e) below, a list of persons granted funding for the previous year and in what amount, and a list of unsuccessful applicants for funding. The Licence Holder is required to publish annually the amount paid to the Trust, and the information provided to it by the Trust relating to the allocation of funds, as specified in this condition.~~
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### Christchurch Casino

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  - (f) if the Trust has failed to provide any of the information requested under condition 15, a statement identifying what has not been provided.

### Dunedin Casino

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### *Queenstown Casino*

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### *Wharf Casino*

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### Submissions

5. The Commission invited submissions on the proposed amendments from SKYCITY Auckland Limited, SKYCITY Hamilton Limited, Queenstown Casinos Limited, Otago Casinos Limited (collectively "**SKYCITY**"), Christchurch Casinos Limited ("**CCL**"), Dunedin Casinos Limited ("**DCL**"), the Secretary for Internal Affairs ("**DIA**"), Ministry of Health, PGF Group, Salvation Army Oasis ("**SA**"), Auckland Regional Public Health Service, Waikato DHB, Canterbury DHB, Southern DHB, Auckland Council, Hamilton City Council, Christchurch City Council, Dunedin City Council, Queenstown Lakes District Council, Anglican Action and Te Ngira Rōpū. The Commission received three written submissions on the proposed amendments; from SKYCITY, DIA and SA. The Commission invited submissions in reply, receiving brief comments only from SKYCITY.
6. Although they did not file submissions on the proposed amendments, the Commission invited submissions from CCL and DCL on a submission filed by DIA because DIA's submissions proposed additional amendments to the licence conditions for all six Casinos (discussed below).
7. The Commission's proposal was for the relevant Trust information to be made available for each financial year, commencing from the year ending 31 March 2022. As its financial year commences from the year ending 30 June, SKYCITY proposed an amendment to the proposed licence conditions for the SKYCITY casinos to align the obligations with its financial year.
8. SA and DIA supported the amendments proposed by the Commission, with the DIA also submitting that additional requirements should be imposed which require the Licence Holders to publish their grant application criteria, and that distribution information be published six-monthly, rather than annually, because the Class 4 sector is required to publish its information on a three-monthly basis. The Secretary submitted that six-monthly publication would strike a balance between the 12 months proposed by the Commission and the three months required of the class 4 sector.
9. In reply, SKYCITY submitted that, as it already publishes its grant criteria, it had no objection to including that additional requirement. However, it supported the Commission's

proposal for the requirement for distribution information to be published annually as being sufficient because the associated trusts do not necessarily meet twice a year, so that there would often be no new information to publish if publication were required more frequently.

10. CCL's submissions were similar to SKYCITY's in that it already publishes the grant criteria and makes distributions only once per year (an established practice for the last 25 years).
11. DCL had no objection to the additional obligations suggested by DIA.

### **Analysis**

12. The Commission's proposed amendments proved to be uncontroversial, with the only discussion being in relation to the publication of grant criteria, the frequency of publication and amending the distribution date for the SKYCITY Trusts.
13. No casino operator was concerned with the requirement to publish grant criteria, with SKYCITY and CCL submitting that they already do this, so the Commission amended the proposed licence conditions accordingly. The Commission saw no reason not to amend the date for the publication of distribution information for the four SKYCITY trusts in order to align the licence condition obligations with SKYCITY's financial year.
14. The Commission was not persuaded by the DIA's submission that casino operators should be required to publish information six-monthly. The rationale advanced for an increase in publication frequency was the statutory requirements for the Class 4 sector to publish similar information quarterly. However, the Commission saw no need to align the requirements to be imposed regarding the operation of associated charitable trusts with the obligations which applied directly to Class 4 licence holders. The statutory basis for, and the operating models used by, the casino and class 4 sectors are quite different and do not require alignment. The creation and distribution of net proceeds for community purposes by the licence holder is at the heart of Class 4 gambling. It is not surprising that the sector is heavily regulated with focus on distributions, but the casino sector is different, with community benefit having a less central place and the licence holder having a less direct role.
15. Finally, the Commission saw little point in requiring casinos to publish information six-monthly if activity cycles meant that no new information was likely.

### **Decision**

16. The Commission varied, pursuant to section 139 of the Act, the charitable trust licence conditions for all six casinos in the manner proposed, with the inclusion of an additional requirement to publish grant criteria, and with an amended distribution date for the Auckland, Hamilton, Queenstown and Wharf Casinos.

17. The charitable trust licence conditions for the Auckland, Hamilton, Christchurch, Dunedin, Queenstown and Wharf Casinos now provide as follows:

*Auckland Casino*

16. The Licence Holder is required to ask the Trust to provide it with the information set out in condition 17(b)-(f) below.
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  - (e) grant application criteria;
  - (f) distribution information in respect of each financial year, commencing from the year ending on 30 June 2022, namely:
    - (i) the amount received by the Trust;
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    - (iii) details of all distributions, including details of the recipients, their location, and the amount distributed to each;
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  - (g) if the Trust has failed to provide any of the information requested under condition 16, a statement identifying what has not been provided.

*Hamilton Casino*

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### **Right of appeal**

18. Pursuant to section 235 of the Act, a person affected by this decision may appeal that decision to the High Court. An appeal must be made within 15 working days of the date of notice of the Commission's decision, or any longer period that the High Court may allow.

*Lisa Hansen*

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**Lisa Hansen**  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

3 May 2022

