

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 venue licence for the Christchurch Casino

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 TO THE VENUE
LICENCE FOR THE CHRISTCHURCH CASINO**

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 proposed, pursuant to section 139(1)(e) of the Gambling Act 2003 (the “Act”), 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. This decision concerns that proposal.
 3. In November 2021, the Commission separately proposed to amend the charitable trust licence conditions for all six Casinos in the manner contemplated in paragraph 1(a) above. The Commission’s decision on that proposal is the subject of a separate decision, GC05/22.

Proposed amendments

4. The Commission proposed amendments, pursuant to section 139(1)(e) of the Act, to conditions 4 and 14 of the licence conditions attached to the venue licence for the Christchurch Casino. Conditions 4 and 14, with the proposed amendments shown in mark-up, are as follows:

4. Casino Win has the same meaning as Casino Win in section 12M of the Gaming Duties Act 1971.

14. The Licence Holder shall financially support the Christchurch Casinos Charitable Trust established by the Deed of Trust dated 31 October 1994 to undertake the objectives and purposes set out in the said Trust Deed. The Licence Holder shall pay to the Trust, in respect of each full year of the casino operations, commencing 1 July 2021 of the Casino, not less than 2.5% of the net profit after tax from the onsite businesses of the Casino, or 0.7% of the Casino Win, such payment in any one year never to be less than \$250,000 per annum, whichever is the greater. The Licence Holder is required to provide annually to the Commission an audited statement certifying the amount constituting 2.5% of the net profit after tax from the on-site businesses of the Casino, and confirming that payment 0.7% of the Casino Win, the amount paid by the Licence Holder to the Trust, and confirming that payment by the Licence Holder to the Trust has been made in accordance with this condition 14.

5. The Commission also invited submissions on any other matter of relevance, including a previous CCL submission, made at stage 1 of the review, that the requirement for paying to a charitable trust should be disposed of in favour of direct community contributions by the casino licence holder.

Submissions

6. The Commission invited submissions from Christchurch Casinos Limited (“CCL”), the Secretary for Internal Affairs (“DIA”), Ministry of Health, PGF Group, Salvation Army/Oasis (“SA”), Canterbury DHB and Christchurch City Council. The Commission received three

submissions on the proposed amendments; from the Secretary, SA and CCL. The Commission invited submissions in reply, receiving brief comments only from CCL.

7. The Secretary and SA both supported the proposed amendments, with SA additionally submitting that it strongly opposed the CCL submission that charitable trusts should be dispensed with in favour of direct contributions from the casino to the community.
8. CCL raised two points in its submissions:
 - (a) It proposed an amendment to the description of the year from which it would be required make contributions to the Trust, from a commencement of 1 July 2021 to 1 April 2021, in order to align the obligation with its financial year.
 - (b) It clarified its earlier submission (to which SA had referred) saying that it was not so much advocating that charitable trusts be dispensed with in favour of direct community contributions from the casino, but rather raising the issue that registered statutory trustee companies charge substantial administration fees, reducing the resulting total charitable benefit available to the community. CCL supports a charitable trust model, but without the high costs of using a registered statutory trustee company. It had recently established a new charitable trust, which would incur lower administrative costs and sought an amendment to the licence condition to refer to the replacement trust. In doing so, it provided a copy of the Deed of Trust for the replacement charitable trust, dated 23 November 2021.

Analysis

9. As with the amendments proposed by the Commission for all six casinos (set out in decision GC05/22), the amendments proposed proved to be uncontentious in principle.
10. The initially proposed description for the commencement of the amended obligation, which used the date of 1 July 2021, had come from the current Auckland casino condition and reflected that casino's financial year. As CCL uses a 1 April financial year, the Commission agreed that the appropriate description for the commencement of the new Christchurch casino obligation is a reference to the financial year commencing 1 April 2021 (and ending on 31 March 2022).
11. The Commission amended condition 14 to record the date and name of CCL's new Trust. As a charitable trust would be retained, the concern expressed by SA did not need to be addressed.

Decision

12. The Commission varied, pursuant to section 139 of the Act, licence conditions 4 and 14 attached to the venue licence for the Christchurch Casino. Licence conditions 4 and 14 now provide as follows:

4. **Casino Win** has the same meaning as Casino Win in section 12M of the Gaming Duties Act 1971.
14. The Licence Holder shall financially support the Christchurch Casinos Charitable Community Trust established by the Deed of Trust dated 23 November 2021 to undertake the objectives and purposes set out in the said Trust Deed. The Licence Holder shall pay to the Trust, in respect of each full year of casino operations, commencing 1 April 2021, not less than 0.7% of the Casino Win, such payment in any one year never to be less than \$250,000. The Licence Holder is required to provide annually to the Commission an audited statement certifying the amount constituting 0.7% of the Casino Win, the amount paid by the Licence Holder to the Trust, and confirming that payment by the Licence Holder to the Trust has been made in accordance with condition 14.

Right of appeal

13. 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
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

3 May 2022