

IN THE MATTER of the Gambling Act 2003  
 AND of an application by  
**CHRISTCHURCH CASINOS  
 LIMITED** to amend condition 14 of  
 its venue licence

**BEFORE THE GAMBLING COMMISSION**

Members: L M Hansen (Chief Gambling Commissioner)  
 D C Matahaere-Atariki  
 W N Harvey  
 S C L Pearson

Date of Application: 29 April 2021

Date of Decision: 6 August 2021

Date of Notification  
 of Decision: 14 April 2022

**DECISION ON AN  
 APPLICATION BY CHRISTCHURCH CASINOS LIMITED  
 TO AMEND CONDITION 14 OF ITS VENUE LICENCE**

**Application**

1. Christchurch Casinos Limited (“CCL”) applied to the Commission to amend condition 14 of its venue licence. CCL made the application because it wants to replace the existing charitable trust for the Christchurch Casino with a new charitable trust which will retain the existing obligations under licence conditions.
2. The Commission invited submissions on CCL’s proposal from the Secretary for Internal Affairs (the “**Secretary**”), PGF Group, the Salvation Army/Oasis (“**SA**”) and Christchurch City Council. It received submissions from the Secretary and SA. Other than to accept the submissions made by the Secretary and SA, CCL did not make any comments in reply.

**Licence conditions**

3. The relevant licence conditions, with the proposed amendments shown in mark-up, are as follows:

**CCL’s venue licence**

**Trust** means the Christchurch Casinos Charitable Community Trust set up under the Deed of Charitable Trust dated ~~31 October 1994~~ date 2021 between ~~Perpetual Trust Limited (under its former name of PGG Trust Limited) and Christchurch Casinos Limited~~, as may be varied with the approval of the Commission.

14. The Licence Holder shall financially support the Christchurch Casinos Charitable Community Trust established by the Deed of Trust dated ~~34 October 1994~~ x date 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 the operation of the Casino, not less than 2.5% of the net profit after tax from the onsite businesses of the Casino, or \$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 by the Licence Holder to the Trust has been made in accordance with this condition.
15. The Licence Holder is required to ask the Trust on an annual basis to provide 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.
16. The Licence Holder must make available to the Trust a dedicated website or webpage on which information about the Trust may be made publicly available, including:
- (a) the Trust deed;
  - (b) information about how to apply for funding from the Trust; and
  - (c) the details of the organisations that received funding from the Trust for each year, and the amount distributed, including the location of the grant recipient in each case.
17. In addition to its support of the Trust, the Licence Holder may, at its discretion, make payments to any of:
- (a) St John New Zealand;
  - (b) The Ronald McDonald House;
  - (c) The Canterbury Westland Rescue Trust
  - (d) REACH Child Cancer;
  - (e) Cholmondeley Children's Centre;
  - (f) surf lifesaving clubs;
  - (g) Christchurch City Mission;
  - (h) Rata Foundation,

or other similar charitable organisations. The Licence Holder shall ensure that none of the charitable organisations to which payments under this condition are made have a direct association with gambling activities. The Licence Holder shall ensure that payments made under this condition are to charitable organisations which are primarily located in Christchurch or the Canterbury region and result in no direct commercial advantage to the Licence Holder. In the event that the Licence Holder fails, for any reason, to make payments under this condition totalling \$100,000 in any financial year, the shortfall shall be paid immediately to the Trust, such payment being separate from that required by condition 14. The Licence Holder's obligations under this condition 17 shall be confirmed annually by certificate from the Licence Holder's external auditors.

### Relevant sections of the Act

4. The relevant sections of the Gambling Act 2003 are as follows:

**139 Conditions of casino licence**

- (1) The Gambling Commission may specify the conditions of a casino licence or vary or revoke the conditions of a casino licence in the following circumstances:
- (a) on granting a casino operator's licence;
  - (b) on renewing a casino venue licence:

- (c) on approving a casino venue agreement or an amendment to it;
  - (d) on application by the holder of the casino licence;
  - (e) on its own initiative or on the request of the Secretary.
- (2) A condition of a casino licence specified under subsection (1)—
- (a) must be consistent with this Act; and
  - (b) must contribute to achieving the purpose of this Act; and
  - (c) must contribute to the efficient and effective administration of this Act; and
  - (d) must not permit an increase in the opportunities for casino gambling; and
  - (e) may relate to any matter, including the matters specified in Schedule 1, within the confines of paragraphs (a) to (d).

**140 Procedure for specifying, varying, or revoking casino licence conditions**

- (1) The Gambling Commission must notify the holder of the relevant casino licence, the Secretary, and any other person who it considers is affected by a proposal to specify, vary, or revoke the conditions of a casino licence.
- (2) Notification under subsection (1) must include—
- (a) the reason for the proposal; and
  - (b) the procedure to be followed before the Gambling Commission makes a decision relating to the proposal.
- (3) The holder of the casino licence, the Secretary, and any other person affected may make written submissions to the Gambling Commission concerning the proposal within 20 working days after the date of the notice under subsection (1) or within any longer period that the Gambling Commission allows.
- (4) The Gambling Commission must consider any submissions made under subsection (3) and may, if it considers it appropriate, seek comment from the casino licence holder on the submissions received from the Secretary or other persons affected.
- (5) The Gambling Commission must notify the holder of the casino licence, the Secretary, and other persons affected of—
- (a) its decision concerning the proposal and the reasons for the decision; and
  - (b) the right to appeal the decision and the process for an appeal.

**Submissions by CCL**

5. CCL submitted, in summary, as follows:
- (a) Condition 14 of its venue licence provides that CCL will financially support the Christchurch Casinos Charitable Trust, which was established pursuant to a Deed of Trust dated 31 October 1994. It wants to disestablish the Trust which is currently referred to in its licence conditions and replace it with a new trust, the Christchurch Casinos Charitable Community Trust, and to make consequential amendments to condition 14 of its venue licence to recognise the change.
  - (b) It wants to make the proposed change in order to increase the amount available for distribution, by saving the fees charged by the current Trustee. The current Trustee has no objection to the change.

It provided a copy of the new Trust Deed for the Commission to review.

### **Submissions by the Secretary**

6. The Secretary submitted that he had no objections to the proposed amendment to condition 14, or to the formation of the Christchurch Casinos Charitable Community Trust. He understands that, if approved, the new arrangement will remain to be considered as part of the Commission's general review of the charitable trust licence conditions which is currently underway.

### **SA's submissions**

7. SA submitted that it had no issue with CCL's proposal.

### **Analysis**

8. CCL's application to amend condition 14 raised no immediate issues of regulatory concern for the Commission. The proposed amendments are to replace the references to the original trust with references to a new trust to be formed, in order to save costs of operation which would otherwise reduce the amounts available for distribution to the community from the contributions required to be paid by CCL. The current trustee has raised no objection to the proposal. Seen only in that context, the proposed change is likely to benefit the community.
9. In addition to amending condition 14, the Commission identified the need for a further consequential amendment the definition of "Trust" in the interpretation section of the licence.
10. In order to allow the Commission to consider the implications of the proposed change, CCL provided a copy of the proposed new Deed of Trust for the Commission to review. Although neither the Act nor licence conditions provide for direct approval of the terms of a deed of trust, CCL was right to have done so. The proposal involved ending CCL's obligations to make contributions to the original trust, the trust deed which is likely to have been reviewed by the Casino Control Authority before granting the original casino premises licence containing the original contribution obligation, so the acceptability of the terms of the proposed new trust deed was a relevant consideration.
11. The Commission exercises ongoing control over all casino licence conditions, through section 139 of the Act. That includes whether the current casino venue licence conditions for community contributions continue to be appropriate, a consideration that encompasses sufficient satisfaction with the structure and operation of the current community benefits distribution arrangements.

12. In that regard, the Commission was surprised to receive the application when, as the Secretary observes, the Commission is currently undertaking a general review of the charitable trust licence conditions attached to the venue licences for all six casinos. The terms of the review include consideration of whether the current charitable trusts continue to be a suitable means of ensuring that the money from casino gambling benefits the community and CCL has already made submissions on that matter in the course of the review.
13. The Commission has decided that the proposed change offers benefit, even if it turns out to be short-lived. The Commission has made clear that it is undertaking a comprehensive review of all charitable trust licence conditions and that the result may be proposals to amend any or all of the current conditions. As was the case with the changes made to the charitable trust conditions for CCL (on renewal) in March 2019<sup>1</sup> and for the Auckland casino in August 2019<sup>2</sup>, the Commission's decision on this application should be regarded as interim, in the sense that the amended condition will be reviewed as part of the comprehensive review process currently underway and this decision should not be assumed to be an indication of the outcome of that review.
14. Following the Commission's consideration of this matter, it asked CCL to provide it with a copy of the finalised and incorporated Trust Deed, so that the appropriate date could be included within the amended licence conditions. CCL provided a copy of the deed, which was dated 23 November 2021.

### Decision

15. The Commission amended condition 14 of CCL's venue licence and the definition of "Trust" to recognise the name and date of the new Trust. The definition of "Trust" and condition 14 of CCL's venue licence now provide as follows:

**Trust** means the Christchurch Casinos Charitable Community Trust set up under the Deed of Charitable Trust dated 23 November 2021, as may be varied with the approval of the Commission.

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 the operation of the Casino, not less than 2.5% of the net profit after tax from the onsite businesses of the Casino, or \$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 by the Licence Holder to the Trust has been made in accordance with this condition.

<sup>1</sup> Decision GC05/19, 29 March 2019

<sup>2</sup> Decision GC18/19, 16 August 2019

**Right of appeal**

16. 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.



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**Lisa Hansen**  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

14 April 2022

