

IN THE MATTER of the Gambling Act 2003

AND on applications for authorisation to appear and be heard at the Public Hearing of the application by **CHRISTCHURCH CASINOS LIMITED** for renewal of its casino venue licence

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
L M Hansen
R D Bell
D C Matahaere-Atariki
W N Harvey

Date of Directions: 27 September 2018

**DECISION ON APPLICATIONS FOR AUTHORISATION TO APPEAR
AND BE HEARD AT THE PUBLIC HEARING OF THE APPLICATION,
AND DIRECTIONS FOR THE CONDUCT OF THE HEARING**

Applications

1. Christchurch Casinos Limited (“**CCL**” or “**Applicant**”) filed an application dated 8 December 2017 for renewal of its casino venue licence. The application was preceded by a decision of the Commission, in GC13/16 on 11 November 2016, approving, pursuant to section 134(3) of the Gambling Act 2003 (“**Act**”), two independent experts nominated by CCL to prepare a casino impact report. A casino impact report is required, by section 134(2), to accompany an application for renewal of a casino venue licence.
2. Following receipt of the application and some additional information provided subsequently by CCL, the Commission publicly notified the application as required by section 135(1)(b). The public notice also invited written submissions on the application (as required by section 135(1)(c)) and invited people who wished to appear and be heard at a public hearing of the application to apply to the Commission for authorisation (as required by section 135(1)(d)).
3. The Commission is required to hold a public hearing of the application¹ and to give public notice of the hearing (including when and where it will be held)².

¹ Section 135(1)(g)

² Section 135(1)(e)

4. The Commission received over 70 written submissions on the application. Written submissions and applications to appear and be heard at the public hearing were received from Problem Gambling Foundation (“**PGF**”), The Salvation Army Oasis (“**SA**”), Christchurch City Council (“**CCC**”) and David Abbott.
5. The Commission also received a memorandum dated 8 August 2018 from counsel for CCL advising that the application itself comprised CCL’s written submission in support, and that CCL wished to be heard in support of its application and to call evidence at the public hearing. The memorandum identified the witnesses whom CCL intended to call and made suggestions for hearing arrangements, including the filing of written evidence in advance.
6. On 12 September 2018, the Commission contacted CCL and the other parties who had sought authorisation to appear and be heard by email, attaching a copy of CCL’s memorandum and setting out some proposed hearing directions for consideration and comment by those parties.
7. The proposed directions were as follows:
 - (a) The hearing will commence on Tuesday, 4 December 2018 and up to 4 days would be available, if required.
 - (b) Parties approved to appear at the hearing may call evidence in support of their written submissions and may make submissions orally at the hearing. Only parties approved to appear may do so.
 - (c) Any party intending to call evidence must file signed written statements of the evidence to be given prior to the hearing, on the dates set below by the Commission. The Commission intends to make the statements available immediately to the other parties and on the application website.
 - (d) The applicant must file statements of its evidence on or before 5 November 2018.
 - (e) Other parties appearing must file statements of their evidence, if any, on or before 19 November 2018.
 - (f) At the hearing, the Commission will require witnesses to confirm their written statements on oath or affirmation. It will otherwise take the statements of evidence as read so witnesses will not read their written statements *verbatim*.

- (g) All witnesses will be subject to questioning by the parties authorised to appear and by the Commission. Witnesses may then be re-examined by the party calling them.
 - (h) Approved parties will call their evidence, if any, and make their submissions before the next party is heard in the following order: Applicant, PGF, SA, CCC and David Abbott.
 - (i) The applicant may make submissions in reply.
 - (j) In its discretion, the Commission may grant leave to depart from the foregoing as appears necessary to it.
8. No comments or submissions in response were received from any of the parties contacted by email.

Authorisations to appear

9. The Commission is required by section 134(1)(d) to invite applications for authorisation to appear. The requirement implies that the Commission is expected to exercise a degree of control over appearances before it at the public hearing.
10. Rights to appear are affected by the following provisions of the Act:

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- ...
- (4) Persons or groups who satisfy the Gambling Commission that they represent a section of the community in which the casino is located are entitled to appear and be heard at the public hearing of the application in person or by counsel or agent.

136 Information and matters to be considered

Before deciding whether to renew a casino venue licence, the Gambling Commission must consider—

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- (c) any additional information or evidence provided by the applicant or person with a significant influence at the Gambling Commission's request; and
 - (d) any written submissions and other written and oral evidence

11. In the Commission's view, the effect of the foregoing provisions is as follows:
- (a) The applicant is entitled to appear and be heard.
 - (b) Any party who satisfies the Commission that it represents a section of the community in which the casino is located is entitled to appear and be heard.
 - (c) Any other party may appear only if the Commission authorises it to do so.

12. The Commission considers that it should only authorise appearances by parties not otherwise entitled to appear if satisfied that their appearance is likely to provide material assistance in it reaching its decision. The Commission considers that it is likely to be assisted by parties with particular knowledge, interest, experience or expertise in the conduct of gambling generally or in the areas to which the Commission's attention is directed by section 137 (suitability of the applicant, the applicant's compliance record and the net benefit of renewal of the licence to the local and regional communities surrounding the casino and to New Zealand generally). For that reason, the public notice inviting applications for authorisation to appear asked applicants to make submissions regarding any right to appear and otherwise to indicate why the Commission should authorise them to appear.
13. The Commission is satisfied that CCC, being the territorial authority in whose area the casino is located, represents a section of the community in the area in which the casino is located and is entitled to appear and be heard. Its appearance is authorised accordingly.
14. The Commission is familiar with the knowledge, interest, experience and expertise of PGF and SA in relation to harm caused by gambling and its effect on community interests. Both parties are national organisations involved in assisting problem gamblers. They are regularly invited by the Commission to make submissions on applications concerning the regulation of casinos under the Act and have frequently done so. The Commission is satisfied that both parties are likely to be of material assistance to its decision making and they are accordingly authorised to appear.
15. Mr Abbott filed a very short written submission, similar to many other written submissions received, in which he expressed support for the application. He indicated that his particular interest was as the owner of neighbouring premises and that the reasons for his support were the positive effect that the casino's presence had on the businesses of his tenants and on security in the lower Victoria Street area. He also indicated that he was involved in the aviation industry (in an unspecified capacity) and could offer a perspective on the need to provide a casino for international visitors. He did not take the opportunity to provide any greater detail of those matters in the written submission. On inquiry by the Commission's secretariat, he indicated that he wished to appear and "say little more than I have written in my statement but would be open to questions if it helped the process of licence renewal".
16. The Commission was not satisfied that Mr Abbott represented a section of the community in the casino area so as to be entitled to appear. His submissions were made personally as a member of the community but not in a representative role. Nothing in his written submission indicated that his appearance would materially assist the Commission beyond

the content of the written submission already received. The Commission declined to authorise Mr Abbott's appearance at the public hearing.

Hearing directions

17. No comments or submissions were received on the Commission's proposal for consideration. The Commission has taken that to mean that none of the notified parties had any objection to the suggested directions.
18. The Commission considers that the hearing of the application will go more smoothly and with better focus if a signed written statement from any witness to be called is filed in advance of the hearing. Both Commissioners and the other parties will have time to reflect on the substance of the evidence prior to the hearing. The Applicant, who has already notified its intention to call evidence, suggested that written statements from its witnesses be filed in advance. The Commission considers that the other parties should have notice of that evidence in sufficient time to decide whether to call further evidence themselves.
19. The suggested directions are otherwise intended to ensure that all parties appearing have a chance to be heard and to address the evidence and submissions received by the Commission. In light of the limited number of appearances, the Commission has decided to reduce the scheduled hearing to 3 days, rather than 4 as initially proposed. It otherwise makes directions in accordance with the earlier proposal.

Decision

20. The Commission authorises the Applicant, PGF, SA and CCC to appear at the public hearing on 4 December 2018.
21. The Commission declines the application by Mr Abbott for authorisation to appear at the public hearing.
22. The Commission makes the following directions for the hearing:
 - (a) The hearing will commence on Tuesday, 4 December 2018 with up to 3 days available, if required.
 - (b) Only parties approved to appear at the hearing may call evidence in support of their written submissions and may make submissions orally at the hearing.
 - (c) The parties approved to appear are the Applicant, PGF, SA and CCC.

- (d) Any party intending to call evidence must file signed written statements of the evidence to be given prior to the hearing, on the dates set below by the Commission. The Commission intends to make the statements available immediately to the other parties and on the application website.
- (e) The applicant must file statements of its evidence on or before 5 November 2018.
- (f) Other parties appearing must file statements of their evidence, if any, on or before 19 November 2018.
- (g) At the hearing, the Commission will require witnesses to confirm their written statements on oath or affirmation. It will otherwise take the statements of evidence as read so witnesses will not read their written statements verbatim.
- (h) All witnesses will be subject to questioning by the parties authorised to appear and by the Commission. Witnesses may then be re-examined by the party calling them.
- (i) Approved parties will call their evidence, if any, and make their submissions before the next party is heard in the following order: Applicant, PGF, SA, and CCC.
- (j) The applicant may make submissions in reply.
- (k) In its discretion, the Commission may grant leave to depart from the foregoing as appears necessary to it and leave is granted generally to the parties to apply.

23. The Commission will issue a public notice accordingly.



Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

27 September 2018