

11 June 2021

Gambling Commission
PO Box 137295
Parnell
AUCKLAND 1052

Dear Sir/Madam,

SUBMISSION ON THE REVIEW OF CHARITABLE TRUST LICENCE CONDITIONS FOR CASINOS

Introduction

1. The Queenstown Lakes District Council (QLDC) welcomes the opportunity to submit feedback on the Gambling Commission's review of charitable trust licence conditions for casinos, including both the Queenstown Casino and the Wharf Casino.

Summary of submission

2. The QLDC supports the review of casino charitable trust licence conditions, in particular to better align the casino charitable trust licence conditions with section 3, the purpose of the Gambling Act 2003. Specifically:
 - a. controlling the growth of gambling;
 - b. preventing and minimise harm from gambling, including problem gambling;
 - c. authorising some gambling and prohibiting the rest;
 - d. facilitating responsible gambling;
 - e. ensuring the integrity and fairness of games;
 - f. limit opportunities for crime or dishonesty associated with gambling and the conduct of gambling, including requirements for independence in charitable trusts;
 - g. ensuring that money from gambling benefits the community by percentage-linked revenue requirements to pay into charitable trusts; and
 - h. facilitating community involvement in decisions about the provision of gambling.
3. The QLDC supports a more consistent approach to the level of community funding provided by casinos. It agrees with a consistent percentage applied across casinos but notes the difficulty of identifying what a fair percentage might be without greater understanding of casino finances. Applying a consistent percentage across casinos would bring greater proportional equality to the level of community funding and would also align better with requirements for the proceeds of other gambling forms under the Act and Gambling Regulations.
4. The QLDC also submits that licence conditions should require contribution to trusts that are fully independent from the licence holders, rather than allowing licence holders to exercise control over significant aspects of the trusts.

5. In making this submission, the QLDC also submits that a more sustainable model of funding for community organisations is needed to replace the reliance on gambling proceeds. While this is the preference, in the meantime, the Council supports a more consistent and transparent approach to proceeds from gambling at casinos, as outlined in this submission.
6. Greater consistency and alignment with the purpose of the Gambling Act also aligns well with local authorities' provisions under the Local Government Acts in their role of promoting the four community well-beings, being the current and future social, economic, environmental, and cultural well-being of the district or region.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Mike Theelen', with a long horizontal flourish extending to the right.

Mike Theelen
Chief Executive

BACKGROUND

1. The Gambling Commission is seeking feedback on its review of the charitable trust licence conditions for the Auckland, Hamilton, Christchurch, Dunedin, Queenstown and Wharf Casinos.
2. The Commission considers it timely to review all licences as a group rather than leaving it to separate consideration on the renewal of conditions for each licence and is seeking feedback specifically on whether charitable trust conditions ought to be amended to align better with the purposes of the Gambling Act (the Act).
3. In the review, the Commission will consider whether the licence conditions require amendment and, if so, it will propose specific amendments for further consultation.
4. Submissions are open to all parties and local authorities in each of the six casino areas have been invited to submit on the review. It is considered pertinent for Queenstown Lakes District Council (QLDC) to submit on this review as there are two casino in this district.
5. Submissions close on Friday 11 June 2021.

Casino regulation

6. The charitable trust licence conditions relate to the level of funding that each casino agrees to provide to charitable trusts as part of the conditions for their licence. Conditions were imposed under the Casino Control Act 1990, when the Commission's predecessor body first issued the venue licences.
7. The Commission suggests that the source of charitable trust provision appears to be related to securing competitive advantage over other applicants rather than any statutory requirement that money from gambling benefit the community. Original conditions captured commitments made in successful applications and were unique to each venue.
8. Conditions across the six venues vary markedly and the Commission suggests they may not align well with the purpose of the Gambling Act, which differs materially from that of the Casino Control Act 1990. For example, the object of the Casino Control Act was to establish a licensing system with the aims of promoting tourism, employment and economic development generally. The purpose of the Gambling Act is much more focused on reducing harm and controlling gambling.
9. Conditions on the licenses have remained largely un-amended since they were first imposed when the original venue licence was granted. For example, Queenstown Casino agrees to pay no less than 2.5% of net profit from the operation of the casino, or \$100,000 per annum, whichever is greater. Queenstown's Wharf Casino agrees to pay no less than:
 - a. In respect of the first year of operation, 20% of the net profit after deducting (i) tax, and (ii) 15% of \$3 million, being the shareholders' capital contribution to the casino project;
 - b. In respect of each subsequent year of operation, an additional 1% of net profit after the deductions referred to in subparagraph (a) until the figure of 30% is reached;
 - c. Thereafter, 30% of net profit after the deductions referred to in subparagraph (a).

10. Without knowing the turnover for each casino, it is difficult to know the extent to which casinos meet or exceed their charitable trust licence conditions. See Table 1 for the licence conditions relating to charitable trust payments for each casino.

Table 1: Casino licence conditions relating to charitable trust payments

Casino Location	Trust Supported	Primary Payment Mechanism	Other mechanism?
Auckland	Independent Charitable Trust	Casino wins - no less than 0.7% per annum	Alternative- payment must never be less than \$500,000
Hamilton	Independent Charitable Trust	Revenue (GST exclusive) - no less than 1.5% per annum.	-
Christchurch	Christchurch Casinos Charitable Trust	Net profit (after tax) – not less than 2.5% from the onsite businesses of the casino plus payments to charities totalling \$100,000 per annum with any shortfall required to be paid to the trust as an additional payment (cl 17)	Alternative – must pay as per mechanism or \$250,000 whichever is greater.
Dunedin	Independent Charitable Trust	Turnover (after GST) – equivalent to 1% of turnover of gambling machine to a maximum of \$110,000 per annum.	Additional - no less than \$52,000 to be paid which includes funding treatment for problem gambling.
Queenstown	Independent Charitable Trust	Net profit (after tax) – not less than 2.5% .	Alternative - \$100,000 whichever greater.
Wharf Casino	Independent Charitable Trust	Graduated net profit - 20% after deducting tax and 15% of \$3 million investment. In subsequent years an additional 1% (less deductions) per annum until 30% reached. After that, 30% per annum after deductions.	-

11. Funding priorities of the charitable trusts are also variable. For example, the objectives of the Dunedin Casino Charitable Trust are to assist in the ‘relief of poverty, the advancement of education, the advancement of religion, the advancement of sports for the benefit of the community or any other charitable purpose deemed beneficial to the community by the Trustees’. SkyCity Hamilton Community Trust looks to fund organisations that assist with basic needs such as food, shelter, care, support and mental health and wellbeing. SkyCity Queenstown Casino Community Trust funding assists with arts, culture and entertainment including recognition and understanding of different cultures. It also supports educational programmes or research for life skills, treatment or counselling as well as programmes for the financial security of families. It is important that the funds be fairly distributed into the local community within which individual casinos are located in order for the community to gain full benefit.
12. The charitable trusts that receive casino funding were established by the casino licence holders. The deeds of trust allow the licence holders to exercise control over significant aspects of the trusts. One of the questions in the review is whether licence conditions should require contributions be made to new trusts that are fully independent from the licence holders.

Gambling Act 2003

13. Part of the review is whether the casino licence conditions should align better with the purpose (section 3) of the Act.
14. The Gambling Act 2003 legislates on gambling including gambling venues and electronic gambling machines (EGMs). The purpose of the Act, set out in section 3, is to:
 - a. control the growth of gambling;
 - b. prevent and minimise harm from gambling, including problem gambling;
 - c. authorise some gambling and prohibit the rest;
 - d. facilitate responsible gambling;
 - e. ensure the integrity and fairness of games;
 - f. limit opportunities for crime or dishonesty associated with gambling and the conduct of gambling;
 - g. ensure that money from gambling benefits the community; and
 - h. facilitate community involvement in decisions about the provision of gambling.

Role of territorial authorities

15. All territorial authorities are required by the Act to have a Gambling and TAB Venue Policy stating whether they would allow new non-casino gambling venues to be established within their districts and, if so, where they may be situated.
16. The Dunedin City Council (DCC) policy has been recently reviewed by the Council and has a sinking-lid approach to the number of class 4 (non-casino gambling or 'pokie' machine) gambling venues and EGMs in Dunedin. The policy does not cover casinos and territorial authorities have no jurisdiction over casinos.
17. However, a number of submissions made during the review of the Gambling and TAB Venue Policy were concerned about gambling related harm in the community and the DCC decided to retain its sinking lid approach in response to these concerns.
18. QLDC submits that reduction in gambling related harm contributions need to be considered with more funding requirements directed to those agencies who facilitate assistance with problem gambling. For example, a condition that requires casinos to provide funding for not only charitable community groups but community groups which directly address problem gambling would be beneficial to the community and align with the purpose of the Act.

DISCUSSION

19. The QLDC submission is supportive of the review by the Commission on charitable trust licence conditions for casinos.
20. The review asks whether licence conditions should be amended to align better with the purpose of the Act. This submission supports a review that will bring better alignment of casino charitable trust licence conditions with the purposes of the Act.
21. The review also asks whether consistency in the licence conditions across all six licences is desirable, this submission supports this, thus bringing greater proportionality to the level of community funding provided. For example, where there are particularly lucrative casinos (such as in a large centre, e.g. Auckland) 10% of net revenue would be a higher amount to put into

community funding in order to address the risk of harm from gambling than in a smaller population where there is less harm (but keeping the same amount of contribution).

22. On the review question around independence of charitable trusts, the QLDC submits that licence conditions should require contribution to trusts that are fully independent from the licence holders. This is in place of current trusts that allow licence holders to exercise control over significant aspects of the trusts. The QLDC submits that the levels of contributions made to charitable trusts should be such that they actively meet the purpose of the Act.
23. The review asks in some detail about whether percentage based contributions and minimum annual contributions should be retained and, if so, at what level. It is difficult to propose a specific percentage without greater understanding of the financial details of casinos. However, the QLDC submits that a consistent percentage be applied across all casinos. This approach would bring greater proportionality to the level of community funding and would also align better with requirements for the proceeds of other gambling forms.
24. The percentage contribution currently required appears small. By comparison to other gambling forms, the Gambling Regulations (set under the Act) require class 4 (non-casino gambling or 'pokie' machine) gambling venues to return a minimum of 40 percent of GST exclusive gross proceeds to communities. It could be considered that current contributions are too modest in comparison to gaming machine requirements – but again this depends on the financial details of the casinos.
25. The QLDC requests the Commission to provide more transparency around robust financial information relating to casino gambling activities, which limit the ability of submitters to provide the Commission with clear views on the current and future funding requirements for the charitable trusts.
26. The QLDC submits that the percentage contributions should be taken as a portion of the "Casino Win" , which is defined in section 12M of the Gaming Duties Act 1971 as follows:

casino win, in relation to a casino operator and to any return period, means an amount (not being less than zero) ascertained by deducting from the amount of the gaming income of the casino for the return period the aggregate of—
(a) the amount of gaming wins paid out by the casino in the return period; and
(b) the amount of casino losses (if any) of the casino for the immediately preceding return period
27. This provides correlation between money lost by gamblers and funds given to the community. It also provides for times where – due to unforeseen circumstances such as the Covid-19 outbreak, there is no "Casino win". For example, the Wharf Casino is closed and has been since Covid-19 lockdown. It is not clear how the percentage contribution required by the conditions of the licence apply when the Wharf Casino is shut and not generating any profit.

CONCLUSION

28. The QLDC supports the review of the conditions of casino licences and supports an increased and uniform percentage of "Casino wins" being imposed as a condition to the running of a casino. The QLDC supports independent administration of the charitable trusts into which the casinos must pay this percentage. In principle, the QLDC supports a larger percentage of contribution than currently set for casinos but calls for financial information from the casinos to set an appropriate percentage. The percentage should reflect, and be directed into, organisations which directly address gambling-related community harm.