
GAMBLING COMMISSION



REPORT OF THE GAMBLING COMMISSION FOR THE YEAR ENDED 30 JUNE 2022

Presented to the House of Representatives pursuant to section 229 of the Gambling Act 2003

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The Minister of Internal Affairs

I have the honour to forward the report of the Gambling Commission (the “Commission”) for the year ended 30 June 2022.

Lisa Hansen

Chief Gambling Commissioner

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INTRODUCTION

By the Chief Gambling Commissioner

I am pleased to present to you my annual report for the period 1 July 2021 to 30 June 2022, the Commission's seventeenth full year of operation, and my third as Chief Gambling Commissioner.

The Commission has a mixture of regulatory, judicial and advisory functions in relation to gambling and the gambling sector. The functions most regularly exercised by the Commission involve determining applications for approval under casino licence conditions, amending casino licence conditions and considering appeals from gaming machine operators against decisions made by the Department of Internal Affairs (the "**Department**").

In the last year the Commission determined 110 applications to amend casino licence conditions or grant approvals under casino licence conditions, and two Class 4 appeals.

Lisa Hansen

Chief Gambling Commissioner

REPORT ON ACTIVITIES

Establishment of the Commission

The Commission was established in March 2004 by section 220 of the Gambling Act 2003 (the “Act”). The Act provides that the Commission shall comprise up to five Commissioners.

The Chief Gambling Commissioner is Lisa Hansen, a Barrister based in Wellington. Lisa was a Gambling Commissioner from January 2011 to March 2020, when she was appointed as the Chief Gambling Commissioner. The other four Commissioners are:

- Scott Pearson, who is a Business Consultant and lives in Auckland;
- Susan Hughes QC, who is a Barrister based in New Plymouth;
- William (Bill) Acton, who is a Barrister based in Wellington; and
- Sarah Shaw, who is a Barrister based in Whangarei.

The Commission is serviced by an Auckland-based Secretariat.

The duties and functions of the Commission are set out in Appendix 1 to this report.

The Commission acknowledges the significant contribution of two former Commissioners, Donna Matahaere-Atariki and Wendie Harvey, whose term as Commissioners recently ended.

Casinos

The Commission is responsible for casino licensing, with the Department being responsible for operating and equipment standards, game rules and compliance. Casinos can appeal the Commission’s decisions on licensing matters to the High Court.

In the year ending 30 June 2022, the Commission made 110 decisions on applications to amend licence conditions or obtain approvals under licence conditions. Applications related mainly to approval of new signage around the casinos, revised floor layouts and new game mixes. This compares with 121 decisions made last year.

New Zealand has six casinos (new ones being prohibited under the Act), varying considerably in size, as shown below:

Casino	No. of tables	No. of gaming machines	Fully automated gaming machines
Auckland	150	1,877	240
Christchurch	36	500	-
Hamilton	23	339	-
Dunedin	12	180	-
Queenstown (Beach Street)	12	86	-
Queenstown (Steamer Wharf)	6	74	-

SKYCITY is the dominant operator in New Zealand, operating four of the six casinos: one in Auckland, one in Hamilton and two in Queenstown. The Auckland Casino is by far the largest, with approval to operate up to 150 table games, 1,877 gaming machines and 240 fully automated table games.

SKYCITY Wharf closed temporarily in 2020 due to the impact of COVID-19 on tourist numbers and on its ability to staff the venue. The Casino is likely to remain closed for the foreseeable future.

The Commission completed a review of the contributions made by each Casino to their independent charitable trusts. The Commission determined that it would not propose coordinated amendments to the charitable trust licence conditions for the six Casinos in order to achieve uniformity, rather that it would address each Casino’s charitable trust licence conditions individually, initially in the course of their licence renewal applications. The Commission also determined that it would propose amendments to the charitable trust licence conditions for the six Casinos which would require them to increase the amount of information which they are required to report publicly on the operations and distribution decision-making of their independent charitable trusts. The Commission subsequently made this proposal and varied the charitable trust licence conditions for each Casino accordingly.

The Commission commenced a review of the cash access licence conditions attached to the operator's licences for all six Casinos. The current cash access licence conditions were imposed in 2005 and in light of submissions received at that time which saw cash access as being linked to the facilitation of continuous gambling and resulting in harm. The Commission wants to investigate whether these licence conditions remain appropriate in light of consumer behaviour away from cash and towards cashless transactions.

The Commission is consulting widely on the review and has obtained assistance from an independent expert. The Commission aims to complete its review in the next year. If the outcome of the review is a decision that the current cash access licence conditions should be amended, the Commission will propose specific amendments for each Casino and consult on those proposed amendments.

Appeals to the Commission

The Department exercises primary licensing and enforcement functions in relation to non-casino gambling (gaming machines and large-scale lotteries).

Operators have rights of appeal to the Commission against decisions made by the Department in circumstances including loss of licence, enforcement action and in relation to the imposition of licence conditions by the Department.

The Commission determined two appeals in the year ending 30 June 2022.

An appeal is heard on a *de novo* basis, meaning that the Commission considers the matter afresh.

Decision GC19/21 – Appeal by Kiwi Gaming Foundation against a decision by the Secretary for Internal Affairs (the “Secretary”) regarding Class 4 licence conditions for the Woodend Tavern, Christchurch

The Appellant appealed against a decision by the Secretary regarding Class 4 venue licence conditions for the Woodend Tavern, Christchurch. Kiwi's Class 4 venue licence recorded that it was authorised to operate no more than 18 gaming machines, but the schedule attached to the licence listed details of only 10 machines.

Following an earlier Commission decision (Appeal by *Pub Charity Limited re Matata Hotel*, GC03/21), Kiwi applied to the Secretary to add details of an additional

eight gaming machines with a view to preserving the right to operate a maximum of 18 machines at the venue. The Secretary returned Kiwi's application, stating that it was null and void, and would not be accepted. Kiwi appealed against this decision.

In its decision, the Commission noted that the earlier *Matata* decision had considered sections 92 and 70 of the Gambling Act, but that the decision was made without reference to section 86. The provisions of section 86 give rise to potential issues arising from the scope of statutory obligations of societies regarding the connection of gaming machines that they control to an electronic monitoring system, and the effect of non-connection on authorisation for use. The Commission made a number of general observations about section 86 before determining the issue on the appeal; namely whether the gaming machines for which details are provided in the venue licence need to be of an approved type and owned by the society AND be connected at all times to an electronic monitoring system. It was not obvious to the Commission why all authorised gaming machines must be connected at all times to an electronic monitoring system, including those machines which are not intended to be operated, and may never be operated at the venue. Although the Commission was able to determine the central issue, it lacked key operational information and so was unable to address some of the additional issues raised. The Commission therefore referred the application back to the Secretary with directions for him to reconsider it in light of the guidance that the Commission had provided.

Decision GC07/22 – Appeal by Aotearoa Gaming Trust re Glasine's Café and Bar, Invercargill

The Appellant appealed unsuccessfully against a decision by the Secretary to impose a condition on the venue licence for Glasine's, requiring the closure of an external door into the gaming room. The condition was imposed by the Secretary because he was not satisfied that the possibility of excluded gamblers and persons under 18 years of age accessing Class 4 gambling at the venue had been minimised. The Appellant appealed against the imposition of the condition on the ground that it was unnecessary and it proposed a replacement condition in its place. The Commission determined that the condition imposed by the Secretary was appropriate for the venue and was reasonable in the circumstances.

Miscellaneous

On 10 February 2022, the Commission made recommendations to the Minister of Internal Affairs and the Minister of Health on the total amount of the proposed problem gambling levy for the three-year period 1 July 2022-30 June 2025, and the proposed levy rate for each gambling sector. The Commission convened a consultation meeting on 27 January 2022 as part of its process to make recommendations and obtained independent expert advice on the Ministry of Health's funding plan.

The Commission's main recommendation was in relation to the formula weighting for 2022-2025, with a 70 percent weighting to be placed on the number of people presenting to problem gambling providers and a 30 percent weighting to be placed on the amount of money lost gambling.

Cabinet adopted the Commission's recommendation.

The Commission also recommended that the Ministry of Health should undertake a major strategic review of its problem gambling strategy and use that review to determine the necessary funding requirements for future needs, rather than accepting a historically determined budget envelope as it appears to be doing at present.

Additionally, the Commission suggested that serious consideration should be given to including online gambling as a leviable sector within the problem gambling formula set out in the Gambling Act. The Commission noted that online gambling is already responsible for a growing number of presentations to problem gambling service providers, and that this trend is likely to continue as life moves increasingly online.

Regulations specifying the levy rate, the Gambling (Problem Gambling Levy) Regulations 2022, commenced on 1 July 2022.

In the year ended 30 June 2022, the Commission maintained regular contact with stakeholders, including representatives from all six Casinos, the Class 4 sector, the Department, the Ministry of Health, and treatment providers. The Commission also liaised with gambling regulators in Australian jurisdictions and briefed them on the Commission's work.

The Commission continues to keep abreast of relevant gambling issues at both governance and management levels.

Procedures

In exercising its functions, the Commission has wide powers to determine its own procedures, to engage experts and to receive evidence. The policies and procedures developed by the Commission, and the decisions which it makes, are all published on its website.

Appeal proceedings are run along judicial lines. Procedures involve filing of submissions and affidavit evidence by the appellant, submissions and evidence in response by the respondent Secretary, and submissions and evidence in reply from the appellant.

The Commission consults on applications to amend licence conditions with the casino licence holder, the Secretary and affected persons.

The Commission can, and does, obtain independent legal advice in relation to matters under consideration – both casino applications and appeals.

Apart from its decisions, the Commission (mainly through the Commission Secretariat) communicates on an ongoing basis with stakeholders.

Administration

Under the Act, the Commission has no power to acquire, hold or alienate property, or to employ staff. Instead, the Act requires the Department to service the Commission, by arranging the administrative services necessary for the Commission to perform its functions.

The Act also requires the Commission to make decisions independently of the Minister and the Secretary, and to have a stand-alone office. This is located in Auckland.

The Commission is funded from the Department's Vote but, as noted above, is functionally independent. The Commission's annual expenditure is variable, depending upon the volume of applications and appeals before it, and any litigation with which it is involved.

Commission Meetings

The Commission met 12 times during the year under review: 2 July, 6 August, 3 September, 1 October, 5 November, 3 December 2021, and 27 January, 10 February, 11 March, 8 April, 6 May and 10 June 2022.

The Executive Director attended the Australasian Casino and Gaming Regulators' CEOs meeting by videoconference on 11 May 2022.

Future Directions

The focus of the Commission in 2022/2023 will be the following activities:

- Continuing with its review of the cash access licence conditions.
- Commencing a review of the Host Responsibility Programmes for each Casino.
- The ongoing effective discharge of its licensing and appeal functions.
- Continuing to meet with the sector.
- Keeping the Minister informed of developments relating to the Commission's functions.

COMMISSION MEMBERS

Lisa Hansen

Barrister
Wellington
Appointed January 2011
Term expiring November 2022

Scott Pearson

Business Consultant
Auckland
Appointed December 2018
Term expiring 31 January 2025

Susan Hughes QC

Barrister
New Plymouth
Appointed 14 February 2022
Term expiring 31 January 2025

William (Bill) Acton

Barrister
Wellington
Appointed 14 February 2022
Term expiring 31 January 2025

Sarah Shaw

Barrister
Whangarei
Appointed 14 February 2022
Term expiring 31 January 2025

CONTACT DETAILS FOR COMMISSION

Level 2
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Website
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Email
info@gamblingcom.govt.nz

APPENDIX 1

Duties and Functions of the Commission under the Act

The Commission is an independent decision-making body with the powers of a Commission of Inquiry. Its functions are wide-ranging, and include the following:

- specifying, varying and revoking casino licence conditions
- considering and determining applications for casino operators' licences and the renewal of casino venue licences
- approving agreements and changes to agreements between casino operators and casino venue licence holders
- considering and determining appeals against regulatory and licensing decisions made by the Department in respect of Class 3 and Class 4 gambling. Class 3 gambling involves prizes of more than \$5,000, but does not take place at a casino or involve gaming machines. Class 4 gambling relates to non-casino gaming machine operations
- considering and dealing with complaints about the way the Department has handled complaints in relation to Class 4 gambling
- advising the Minister for Internal Affairs on matters relating to the performance of the Commission's functions and the administration of the Act, either at the Minister's request or on its own initiative
- advising Ministers and facilitating consultation on the setting of the problem gambling levy.

APPENDIX 2

Decisions of the Commission: 2021/2022

Decision		Status
GC10/21	Application by SCAL for vary conditions 9 and 9A of its venue licence	Approved
GC11/21	Application by DCL for approval of new independent experts to prepare a Casino Impact Report to accompany the renewal application for its Casino Venue Licence	Approved
GC12/21	Application by SCAL for approval of a new game mix for the Queenstown Casino	Approved
GC13/21	Application by CCL to amend condition 14 of its venue licence	Approved
GC14/21	Proposal by the Gambling Commission to amend the approval for the provision of credit for gambling by casino operators	Approved
GC15/21	Application by CCL for an approval pursuant to condition 15 of its operator's licence, to trial the deployment of an EFTPOS terminal at a gaming table	Declined
GC17/21	Application by CCL for approval to install two temporary cashiering facilities at the Christchurch Casino	Approved
GC18/21	Review by the Gambling Commission of the charitable trust licence conditions attached to all casino venue licences	Completed
GC19/21	Appeal by Kiwi Gaming Foundation against a decision regarding a Class 4 venue licence for the Woodend Tavern, Christchurch	Referred back to the Secretary with directions
GC20/21	Application by SCML for approval of a new game mix Annex for the Hamilton Casino	Approved
GC01/22	Application by CCL to redesignate the Casino's Gambling Area, to vary licence conditions attached to its venue and operator's licences, for approval of new floor plans, and for approval of construction and design changes	Approved
GC02/22	Application by SCML for approval to install a temporary cashiering facility at the Hamilton Casino	Approved
GC03/22	Application by CCL for approval to install a temporary cashiering facility at the Christchurch Casino	Approved
GC04/22	Application by SCML for temporary approvals under condition 8 of its operator's licences for the Hamilton and Queenstown Casinos	Approved
GC05/22	Decision on a review by the Gambling Commission of the charitable trust licence conditions attached to the venue licences for the Auckland, Hamilton, Christchurch, Dunedin, Queenstown and Wharf Casinos	Approved
GC06/22	Decision on a review by the Gambling Commission of the charitable trust licence conditions attached to the venue licence for the Christchurch Casino	Approved
GC07/22	Appeal by Aotearoa Gaming Trust – Glasine's Café and Bar	Dismissed

Delegated Approvals allowed by the Commission: 2021/2022

5-Jul-21	CCL	Application for approval of signage at the Christchurch casino
8-Jul-21	CCL	Application for approval of signage at the Christchurch casino
23-Jul-21	SHL	Application for approval of signage at the Hamilton casino
26-Jul-21	SCAL	Application for approval of signage at the Auckland casino
27-Jul-21	SCML	Application for approval of new floor plans for the Auckland casino
30-Jul-21	SHL	Application for approval of signage at the Hamilton casino
3-Aug-21	SCAL	Application for approval of signage at the Auckland casino
3-Aug-21	CCL	Application for approval of new floor plans for the Christchurch casino
11-Aug-21	SHL	Application for approval of signage at the Hamilton casino
20-Aug-21	SCML	Application for approval of a new floor plan for the Hamilton casino
2-Sep-21	CCL	Application for approval of a new floor plan for the Christchurch casino
6-Sep-21	DCML	Application for approval of a new floor plan for the Dunedin casino
8-Sep-21	CCL	Application for approval of new temporary floor plans, and construction and design changes to the Christchurch casino
10-Sep-21	DCL	Application for approval of construction and design changes to the Dunedin Casino
13-Sep-21	SHL	Application for approval of signage at the Hamilton casino
13-Sep-21	SCML/SHL	Application for approval of new temporary floor plan, and construction and design changes to the Hamilton casino
15-Sep-21	SHL	Application for approval of signage at the Hamilton casino
15-Sep-21	SCML	Application for approval of a new floor plan for the Queenstown casino
17-Sep-21	CCL	Application for approval of new floor plans for the Christchurch casino
21-Sep-21	SHL	Application for approval of construction and design changes to the Hamilton casino
22-Sep-21	CCL	Application for approval of new temporary floor plans, and construction and design changes to the Christchurch casino
23-Sep-21	SCML/SCAL	Application for approval of two new floor plans for the Auckland casino, and construction and design changes
24-Sep-21	CCL	Application for approval of construction and design changes to the Christchurch casino
4-Oct-21	SCML	Application for approval of a new floor plan for the Hamilton casino
5-Oct-21	CCL	Application for approval of a new floor plan for the Christchurch casino
8-Oct-21	DCML	Application for approval of a new floor plan for the Dunedin casino
14-Oct-21	SCML/SCAL	Application for approval of a new floor plan for the Auckland casino, and construction and design changes

18-Oct-21	SCAL	Application for approval of signage at the Auckland casino
27-Oct-21	SCAL	Application for approval to broadcast gambling activity from the Auckland casino
3-Nov-21	SCAL	Application for approval of signage at the Auckland casino
5-Nov-21	CCL	Application for approval of signage at the Christchurch casino
11-Nov-21	SCAL	Application for approval of signage at the Auckland casino
18-Nov-21	CCL	Application for approval of new temporary floor plans, and construction and design changes to the Christchurch casino
24-Nov-21	SCML	Application for approval of a new floor plan for the Queenstown casino
25-Nov-21	SCAL	Application for approval of signage at the Auckland casino
26-Nov-21	SCML/SCAL	Application for approval of two new floor plans for the Auckland casino, and construction and design changes
1-Dec-21	DCML	Application for approval of a new floor plan for the Dunedin casino
1-Dec-21	CCL	Application for approval of new floor plans for the Christchurch casino
2-Dec-21	CCL	Application for approval of signage at the Christchurch casino
6-Dec-21	CCL	Application for approval of signage at the Christchurch casino
8-Dec-21	SHL	Application for approval of signage at the Hamilton casino
8-Dec-21	SCAL	Application for approval of signage at the Auckland casino
9-Dec-21	SCAL	Application for approval of signage at the Auckland casino
13-Dec-21	SHL	Application for approval of signage at the Hamilton casino
14-Dec-21	SCML	Application for approval of a new floor plan for the Auckland casino
14-Dec-21	SCML/SCAL	Application for approval of two new floor plans for the Auckland casino, and construction and design changes
14-Dec-21	SCAL	Application for approval of signage at the Auckland casino
14-Dec-21	CCL	Application for approval of a new floor plan for the Christchurch casino
15-Dec-21	DCML/DCL	Application for approval of a new floor plans for the Dunedin Casino, and for construction and design changes
16-Dec-21	CCL	Application for approval of signage at the Christchurch casino
16-Dec-21	SHL	Application for approval of construction and design changes to the Hamilton casino
17-Dec-21	SCAL	Application for approval of construction and design changes for the Auckland casino
24-Dec-21	CCL	Application for approval of new temporary floor plans, and construction and design changes to the Christchurch casino
12-Jan-22	CCL	Application for approval of signage at the Christchurch casino

20-Jan-22	SHL	Application for approval of signage at the Hamilton casino
21-Jan-22	SHL	Application for approval of signage at the Hamilton casino
21-Jan-22	SCML/SCAL	Application for approval of two new floor plans for the Auckland casino, and construction and design changes
27-Jan-22	SHL	Application for approval of construction and design changes to the Hamilton casino
1-Feb-22	CCL	Application for approval of signage at the Christchurch casino
2-Feb-22	CCL	Application for approval of signage at the Christchurch casino
2-Feb-22	SHL	Application for approval of signage at the Hamilton casino
18-Feb-22	SCAL	Application for approval of signage at the Auckland casino
18-Feb-22	CCL	Application for approval of a new floor plan for the Christchurch casino
25-Feb-22	SHL	Application for approval of signage at the Hamilton casino
3-Mar-22	SHL	Application for approval of signage at the Hamilton casino
4-Mar-22	SHL	Application for approval of signage at the Hamilton casino
30-Mar-22	SHL	Application for approval of signage at the Hamilton casino
5-Apr-22	SHL	Application for approval of signage at the Hamilton casino
13-Apr-22	SHL	Application for approval of signage at the Hamilton casino
13-Apr-22	SHL	Application for approval of construction and design changes at the Hamilton casino
13-Apr-22	SCAL	Application for approval of construction and design changes at the Auckland casino
13-Apr-22	CCL	Application for approval of signage at the Christchurch casino
14-Apr-22	CCL	Application for approval of new floor plans for the Christchurch casino
14-Apr-22	SCML	Application for approval of two new floor plans for the Auckland casino
18-Apr-22	CCL	Application for approval of signage at the Christchurch casino
22-Apr-22	SHL	Application for approval of signage at the Hamilton casino
22-Apr-22	CCL	Application for approval of signage at the Christchurch casino
26-Apr-22	SCAL	Application for approval to broadcast gambling activity from the Auckland casino
27-Apr-22	SHL	Application for approval of signage at the Hamilton casino
29-Apr-22	SHL	Application for approval of signage at the Hamilton casino
2-May-22	SCAL	Application for approval of signage at the Auckland casino
3-May-22	CCL	Application for approval of signage at the Christchurch casino
6-May-22	CCL	Application for approval of signage at the Christchurch casino

17-May-22	CCL	Application for approval of construction and design changes to the Christchurch casino
25-May-22	SHL	Application for approval of signage at the Hamilton casino
25-May-22	CCL	Application for approval of signage at the Christchurch casino
27-May-22	CCL	Application for approval of construction and design changes to the Christchurch casino
1-Jun-22	CCL	Application for approval of new floor plans for the Christchurch casino
2-Jun-22	CCL	Application for approval of construction and design changes to the Christchurch casino
3-Jun-22	SCAL	Application for approval of signage at the Auckland casino
15-Jun-22	SHL	Application for approval of signage at the Hamilton casino
17-Jun-22	SCAL	Application for approval of signage at the Auckland casino
21-Jun-22	SCML	Application for approval of a new floor plan for the Queenstown casino
22-Jun-22	SCML	Application for approval of a new floor plan for the Hamilton casino
23-Jun-22	CCL	Application for approval of signage at the Christchurch casino
23-Jun-22	SHL	Application for approval of signage at the Hamilton casino
27-Jun-22	SCML	Application for approval of a new floor plan for the Auckland casino
30-Jun-22	CCL	Application for approval of signage at the Christchurch casino

