

Internal Affairs Briefing

Hon Rick Barker
Minister of Internal Affairs

Title: Allegations of Improperities at, or associated with, Christchurch Casino

Date: 13 July 2007

Key issues

- Allegations have been made about loan sharking, skimming from gaming machines, prize draw fixing and money laundering in Christchurch Casino, and that Casino managers organise illegal gambling off the Casino premises for criminal elements in Christchurch.
- These allegations have been used to suggest that the Casino is not properly managed and that the Department is not an effective casino regulator.
- The Department's regular monitoring and audits indicate that Christchurch Casino generally complies with game rules and minimum operating standards.
- The Department is putting or has put in place strategies, and has taken effective actions, to counter undesirable and/or illegal activities associated with New Zealand's casinos.
- There are ways in which the whole of government approach to preventing and dealing with such undesirable and/or illegal activities could be enhanced.

Action sought	Timeframe
Note the contents of this briefing.	At your convenience (noting that you have said publicly that you will have the report on 13 July).

Contact for telephone discussion (if required)

Name	Position	Telephone		Suggested first contact
		direct line	after hours	
Keith Manch	Deputy Secretary, Regulation and Compliance	04 495 9329	021 227 6363	✓
Mike Hill	Director Gambling Compliance Group	04 495 9449	021 979 427	

Purpose of briefing

1. This paper briefs you on issues raised by recent allegations of improprieties and/or illegal activities at, or associated with, Christchurch Casino. These allegations have been used to underpin suggestions that the Casino is not properly managed and that the Department is not an effective casino regulator, and to support calls for an independent inquiry. The paper outlines the results of the Department's investigations into the allegations to date.
2. The paper also canvasses the broader context, including strategies that the Department is putting or has put in place, and effective actions that the Department has taken, to counter undesirable and/or illegal activities associated with casinos. It goes on to suggest ways in which the whole of government approach to preventing and dealing with such undesirable and/or illegal activities could be enhanced.

Executive summary

3. Since early June, there have been media reports alleging a variety of improprieties and/or illegal activities associated with Christchurch Casino. The allegations have been cited to suggest that the Casino is not properly managed, that the Department is not an effective casino regulator, and that a public inquiry is required.
4. Media reports have linked the allegations to two former managers in the Casino. While employed by the Casino, these men did not raise with the Department the concerns that are now being reported in the media. Further, they have formed a company and have said that it intends applying for a casino operator's licence. Therefore, it appears that both the company and the two former casino managers have a vested interest in criticising the management of one or more existing casinos.
5. The Department's regular monitoring and audits indicate that the Casino generally complies with game rules and operating standards. Investigations to date also suggest that there is little or no substance to at least two of the allegations (that the Casino condones loan sharking, and that money has been systematically skimmed from its gaming machines). A final report will be prepared in the next month.
6. Despite its conclusion in relation to these allegations, the Department believes that gambling-related loan sharking does occur in New Zealand's casinos, that it is often linked to organised crime and money laundering, and that it can facilitate problem gambling. The Department also considers that people involved in criminal activity often use the proceeds of their crimes to gamble in casinos as a social activity, even if they are not *laundering* those proceeds as that term is commonly understood.
7. The Casino Control Act 1990, which emphasised the promotion of tourism, employment and economic development, was repealed on 1 July 2004. The Gambling Act 2003 now emphasises the prevention and minimisation of gambling-related harm and the limiting of opportunities for crime and dishonesty associated with gambling. This change of strategic direction has had a significant impact on the nature and breadth of the Department's functions and responsibilities.
8. The Department has undertaken strategic projects, strategic and business as usual intelligence, investigations, compliance, and policy work (separately and in conjunction with other law enforcement and policy agencies) to effectively address, in particular, money laundering and organised crime in or associated with casinos. However, there are ways in which the whole of government approach to preventing and dealing with such undesirable and/or illegal activities could be enhanced.
9. While there have been calls for a public inquiry, it is not clear what such an inquiry might achieve. The Gambling Act 2003 has already initiated a shift in the strategic approach, and the Department and other relevant agencies have already undertaken and developed, and are continuing to undertake, develop and propose, actions and strategies to deal with the issues identified in this briefing.

Background information

10. Since early June 2007, there have been various media reports alleging improprieties and/or illegal activities associated with Christchurch Casino. It has been alleged that loan sharking, skimming from gaming machines, prize draw fixing and money laundering all occur in the Casino. It has also been alleged that Casino managers organise illegal gambling away from the Casino for criminal elements in Christchurch.
11. The allegations have been used to underpin suggestions that the Casino is not properly managed and that the Department is not an effective casino regulator. They have also been cited to support calls for a public, parliamentary or independent inquiry into, variously, Christchurch Casino, loan sharks and casinos, or the whole gambling industry.
12. Media reports have linked the allegations to the former Acting Chief Executive and Deputy Chief Executive at Christchurch Casino, Stephen Lyttelton, and a former Senior Gaming Manager, Peter Arbuckle.
13. Arbuckle resigned from the Casino on 31 May 2007 and Lyttelton resigned on 5 June 2007. Since that time, the two have given a variety of reasons for resigning. These reasons have included a desire to clean up the casino sector, threats by the criminal underworld and drunkenness by a member of the Casino board.
14. It has since been reported that Arbuckle neglected to tell his ex-wife and their children about any concerns for his family's safety, and that he himself was convicted for drink-driving last year after driving home drunk from a managers' function at the Casino. Media reports on 12 July 2007 now suggest that Lyttelton and Arbuckle are suing Christchurch Casino, alleging unjustified dismissal.
15. During their employment as senior managers with the Christchurch Casino, Lyttelton and Arbuckle had the opportunity, for example during regular liaison meetings, to notify the Department of their concerns. In respect of some issues, for example concerns about money laundering, they arguably had an obligation to do so. They did not do so. Shortly before his resignation, Lyttelton was involved with managing a VIP patron who has since been charged with causing loss by deception.
16. On 1 June 2007, Lyttelton, Arbuckle and others registered a company, New Zealand Casino Services Ltd. It has since been publicly reported that the company intends applying for a casino operator's licence. The fee for such an application is \$340,000.
17. Given that no new casinos may legally be established in New Zealand, a new casino operator's licence has little or no value unless an existing casino operator either loses its licence, or voluntarily stops operating, or agrees to some sort of joint venture. Therefore, New Zealand Casino Services Ltd, Lyttelton and Arbuckle all appear to have a vested interest in criticising the management of one or more existing casinos.
18. The Department launched an investigation into the situation at Christchurch Casino immediately after the Lyttelton and Arbuckle resignations, and before the media coverage. A senior manager from the Department spoke to Arbuckle at the time.

Alleged improprieties and/or illegal activities, and Christchurch Casino

19. It is worth noting at the outset that the Department's regular monitoring and audits indicate that Christchurch Casino generally complies with game rules and minimum operating standards. Attached as Appendix 1 is a report on the Department's compliance activities in relation to the Christchurch Casino.

Loan sharking

20. In June 2007, a Christchurch newspaper, *The Press*, reported allegations that two loan sharks were funding problem gamblers who play in Christchurch Casino's VIP room. *The Press* printed an interview with a client of a person who was said to be a loan shark. The article stated that loan sharks operate illegally and outside of the tax regime, and facilitate problem gambling by helping gamblers get deeper into debt.
21. A *loan shark* generally means a person or entity that offers loans at very high interest rates, typically illicitly and requiring little or no security. Repayment is often enforced by blackmail, or by threats of or actual violence. Borrowers may be forced into activities in which they would not otherwise engage (eg prostitution or crime). It is unlikely that loan sharks declare their income for taxation purposes.
22. It is important to note that loan sharking per se (in the sense of lending money at usurious interest rates) is not illegal. However, the intimidation, blackmail, recruitment for criminal activities, violence and tax evasion that are typically associated with loan sharking clearly are illegal (as is failure to provide a written disclosure of information relating to any credit contract – see paragraph 63 below).
23. It is also worth distinguishing *loan sharking* from *moneylending*. Moneylending (as used in this briefing) generally means lending money or money's worth (eg casino chips) without charging interest (eg between friends), or charging reasonable interest, and without the criminal activities associated with loan sharking. It is often difficult to establish whether a particular activity is loan sharking or moneylending.
24. In order to investigate the implication that the Christchurch Casino condones loan sharking, the Department's Inspectors interviewed and/or gathered (or attempted to gather) information from the following sources in Christchurch:
 - a. Other government agencies including the IRD, the New Zealand Police, the Department for Courts and the Commerce Commission
 - b. Problem gambling intervention services, including the Problem Gambling Foundation and the Salvation Army Oasis Centre
 - c. People excluded from Christchurch Casino due to the problematic nature of their gambling
 - d. Alleged moneylenders and/or loan sharks (including two people identified by *The Press*)
 - e. Lending institutions, including those within the Asian community and a short term, high interest finance company
 - f. Peter Arbuckle
 - g. Christchurch Casino's internal controls, standard operating procedures, standards and policies
 - h. Casino personnel and a Casino VIP gambler
 - i. Christchurch Casino's records of moneylending and/or loan sharking activity.
25. Other government agencies provided the Department with only anecdotal evidence and information. This was largely because neither loan sharking nor moneylending are illegal per se. Inspectors' inquiries did not disclose any cases relating to loan sharking that had come before the courts.
26. The Police considered moneylending a cultural activity associated with the Asian community, and that it tended to occur away from the Casino because patrons knew about the surveillance systems in the Casino. The Police advised that there had been approximately eight moneylenders that had operated at any time since the Christchurch Casino opened in November 1994, typically away from the Casino. Importantly, the Police noted their view that whenever loan sharks were brought to the attention of the Casino, it would take immediate action to exclude them.

27. The Problem Gambling Foundation (PGF) in Christchurch reported that a number of its clients had used moneylenders and/or loan sharks, with borrowing ranging from thousands to tens of thousands of dollars. Consistent with the Police comments, PGF noted that transactions were typically conducted away from the Casino, or in the Casino's toilets. No details of moneylenders were provided, and PGF also stated that it considered that Christchurch Casino takes allegations of moneylending and/or loan sharking very seriously.
28. The Salvation Army considered the greater problem was with pub and club gambling. It considered the Casino well regulated, and understood that the Casino made an effort to identify and exclude loan sharks.
29. The Department contacted 12 people excluded from the Casino due to the problematic nature of their gambling, six of whom were prepared to be interviewed. None of them confirmed the presence of moneylenders or loan sharks in the Casino. However, this lack of confirmation needs to be treated with some caution, because the people interviewed may have been reticent about making a full disclosure due to concerns for their own safety.
30. The Inspectors tried to interview two people identified by *The Press* as loan sharks, without success. However, they did establish that Christchurch Casino had excluded both of these people on two occasions each, and has a trespass notice pending if one of them attempts to re-enter the Casino. The exclusions were in 1999, 2001, 2005, and June 2007. Three of the four exclusions related to allegations of moneylending (in one case, allegations passed on by a local problem gambling intervention service), and two of the four were for the maximum two-year period.
31. The Inspectors were unable to locate any formal lending institutions that serviced the Asian community. The short term, high interest finance company interviewed indicated that it did not knowingly provide loans to service gambling or gambling debt. It had come to this company's attention in the past that a client had a gambling problem. The company produced documents showing that it had managed that client's borrowing off its books.
32. Peter Arbuckle failed to return the Inspectors' calls and emails.
33. The minimum operating standards (MOS), processes and standard operating procedures for Christchurch Casino do not include an explicit requirement to notify Gambling Inspectors of loan shark activity. However, there is a requirement that the Casino notify Gambling Inspectors of any undesirable activity that could compromise the honesty or integrity of gambling, and the Department considers that this captures activity like loan sharking.
34. Casino personnel and a VIP gambler stated that moneylending was fairly commonplace in the Casino. The VIP gambler described moneylending as a convenience between gamblers well known to each other. These sorts of loans are not documented and it is believed that interest is not charged.
35. The Department was able to ascertain from the Casino's records that it had identified 14 people involved in moneylending activity, past and present, but that most of these people were or are borrowers rather than lenders. The Casino noted that it had excluded five people since 2002 in relation to moneylending and/or loan sharking.
36. The Inspectors' review of the Casino's responses to the Department's questions (discussed in paragraphs 55 to 60 below) netted a further five patrons that could be monitored for moneylending and/or loan sharking activity. The Department raised this matter with the Security/Surveillance Manager, and the Casino created person-of-interest files for them.
37. The Department concluded that when Christchurch Casino becomes aware of moneylenders, money borrowers or loan sharks, it acts quickly and decisively.

Skimming from gaming machines

38. Allegations have been made that money has been skimmed from electronic gaming machines at Christchurch Casino. Investigating this allegation involves complex technical and financial work that is not yet complete. One of the Department's forensic accountants is assisting with the work. The Department anticipates that the investigation will be completed within four weeks, and it will provide a final report at that point. The work to date and the interim findings are set out below.
39. The Department's Inspectors seized the following items to facilitate the investigation:
 - a. The laptop of the Casino's Financial Unit Manager. The Department's Censorship Compliance Unit then cloned the hard drive of this laptop.
 - b. The hard drive of the Company Accountant's PC.
 - c. Backup copies of DACOM (the Casino's electronic monitoring system), accounting systems and the file print server, including Word and Excel files saved to the network by Casino staff. These are being reviewed to determine whether documentation has been altered.
40. The Department compared monthly financial reports against Board reports. The monthly financial reports are expressed in a GST exclusive format, while Board reports are GST inclusive. However, the reports were consistent.
41. The Inspectors also compared monthly financial reports and Board reports against IRD casino duty returns for the 24 months ending 31 March 2007. All the periods examined were consistent, except for one issue relating to newly-introduced 1-cent denomination gaming machines over a two-month period in 2005. The Department will discuss this issue with the Casino once its investigation is complete. However, from the material examined, the Inspectors concluded that this one identified inconsistency was a simple error. It was not carried through into other months and it is easily corrected. There was no evidence to suggest that it was an attempt to skim money from the machines.
42. The Department also compared current DACOM figures against historical data held by the Gambling Inspectors, to check for any suspicious changes. The Department found that a number of adjustments had been made. However, none of them were significant, and all appeared to be normal adjustments for variances caused by polling errors, memory clears and counting or weighing errors.
43. The Department has yet to complete the following:
 - a. Comparing monthly financial reports of money counted against the revenue reports generated by DACOM.
 - b. A review of the financial testing undertaken by the Casino's external auditors.
 - c. An integrity check of DACOM, including a check of back-up systems.
44. It should be noted that Christchurch Casino and its auditors have been very cooperative throughout the investigation. It is also worth noting that the Casino's Board has requested that the Casino's auditors undertake a review of its April and May financials.
45. In summary, while the Department identified one simple error as noted above, nothing uncovered to date suggests deliberate manipulation or skimming. The Department will provide a final report in about four weeks.

Prize draw fixing

46. No detail was provided to support this allegation. It is possible that it refers to a case some time ago of a prize draw that was supposed to be conducted on one day being conducted on another. The Department routinely monitors prize draws, and has not encountered evidence of prize draw fixing. The Inspectors will investigate this allegation as the other issues are dealt with.

Money laundering

47. No detail was provided to support this allegation. The Inspectors will investigate this allegation as the other issues are dealt with.

Managers organising illegal gambling away from the Casino

48. No detail was provided to support this allegation. The Inspectors will investigate this allegation as the other issues are dealt with.

Broader context**Change of strategic direction introduced by the Gambling Act 2003**

49. The context for the Department's approach to regulating casinos needs to be understood. New Zealand's casinos were originally regulated under the Casino Control Act 1990, which emphasised the promotion of tourism, employment and economic development. That Act was repealed on 1 July 2004 by the Gambling Act 2003, which emphasises (among other things) the prevention and minimisation of gambling-related harm and the limiting of opportunities for crime and dishonesty associated with gambling. This change of strategic direction had a significant impact on the nature and breadth of the Department's functions and responsibilities.
50. The work that the Department has done to ensure it can effectively undertake its new role supports the information that follows. It is important to note that the Department is still evolving and developing its capability. More detail is set out in Appendix 2.

Undesirable and/or illegal activity related to gambling and in casinos

51. The Department considers that gambling-related loan sharking does occur in New Zealand, particularly in casinos. It also believes that loan sharking is often linked to organised crime (particularly Asian organised crime) and money laundering, and that loan sharking can facilitate problem gambling. In addition, it notes that those involved in criminal activity often gamble in casinos as a social activity using the proceeds of their crimes, even if they are not *laundering* those proceeds as that term is commonly understood. The Department bases its view on available research, information from the Police and from the Department's own Casino Compliance and Intelligence Units, and reports from problem gambling intervention services and the media. The Department has prepared a background paper on loan sharking (attached as Appendix 3).
52. The Department also notes that there is an intrinsic tension between the incentives for casinos and their responsibility to ensure that opportunities for crime or dishonesty are limited and that harm is prevented and minimised. Casinos make their profits from customer expenditure. They have an incentive to maximise that expenditure, rather than focusing on the source of the money. In addition, the casino environment is quite different from, say, a bank. In the fast-paced casino gambling environment, customer identification and transaction reporting procedures can be perceived as detracting from the customer's entertainment experience.
53. While the recent media focus has been on loan sharks in casinos, the Department notes that they are just one end of a continuum. Other fringe lenders and finance providers, such as pawnbrokers, second-hand dealers and high interest finance companies might not have links with organised crime and money laundering, but can still facilitate problem gambling.
54. As one of the steps in preparing this report, the Department wrote to each of the casinos and the Problem Gambling Foundation (PGF) to obtain updated information on the extent of moneylending and/or loan sharking in New Zealand.

55. SkyCity replied that it maintains a zero tolerance policy. It noted the difficulty distinguishing between loan sharking and cases where several players are simply playing from a common bankroll. It indicated that six people had been removed from SkyCity Auckland since May 2005 on suspicion of moneylending and/or loan sharking. SkyCity Hamilton noted three removals for this reason. SkyCity Queenstown indicated there had been no such incidents there.
56. Christchurch Casino indicated that there had been 22 reports since June 2005 in which moneylending had been mentioned. The reports involved 14 different people and contained references to 12 separate moneylending incidents. Most appeared to be simple cases of moneylending between players (particularly between Asian players) rather than loan sharking. The Casino indicated that if it was satisfied that someone was loan sharking, that person would be excluded for up to two years. It had removed two patrons for suspected moneylending activities in the past two years (and it later commented that it had excluded five people for that reason since 2002).
57. Dunedin Casino also stated that it maintains a zero tolerance policy. It noted that all moneylending activity had to be considered from two perspectives. The first problem gambling / harm prevention / harm minimisation issue was whether the borrower was gambling more than they could afford. The second issue was whether loan sharking was occurring. It indicated that there had been five recorded cases of moneylending (none of which the Casino considered to be loan sharking) since the Casino opened in 1999. The Casino took action in each of these five cases, ranging from simply speaking to those involved to ensure that there was no problem, up to exclusion for a period of two years and a report to the Police Financial Intelligence Unit. Dunedin Casino noted that moneylending between spouses or friends sometimes occurred in the course of a normal night out. It also noted that loan sharks were likely to target VIP players, and the relatively small size of the Casino meant that such activity would be likely to be noticed and reported.
58. The Wharf Casino in Queenstown reported no relevant incidents. It indicated that the relatively low level of play, the small size of the Casino and the relatively low percentage of local patronage all made it easier for the Casino to pick up and deal with any problems.
59. The Chief Executive and other senior staff of the Problem Gambling Foundation declined to comment formally, because PGF is seeking a public inquiry. From its discussions with these staff, the Department understands that PGF considers that a public inquiry should be held so that information can be gathered confidentially and in a safe setting (given loan sharking's connections to crime). PGF believes that key loan sharking problems occur in casino VIP rooms, and it stated that casino staff fear losing their jobs if they provide information about it to the Department. It also said that government agencies, including the Department, do not deal effectively with loan sharking because it is not a crime. It acknowledged the difficulties addressing the problem, and that if it were addressed within casinos, it might simply be pushed outside of the casinos. PGF considers that changes to legislation are necessary to rid casinos of criminals and loan sharking. The PGF strategy is to maximise its media opportunities, including building on the current media issues for maximum impact.

Relevant legislation and the extent of Inspectors' functions and powers

60. Other government agencies (which typically do not have a presence in gambling venues) and the general public tend to assume that the Department deals with all undesirable and/or illegal activities that occur in or are manifested in casinos, or that are related to gambling. This assumption might be quite reasonable. However, it is not the correct legal position.

61. Under the Gambling Act 2003, the function of Gambling Inspectors is to ensure, to the extent that is reasonably practical, compliance with the Gambling Act by (among other things):
- inspecting, monitoring and auditing the conduct of gambling
 - conducting compliance audits on all aspects of operations
 - detecting, investigating and prosecuting offences against the Act and crimes involving dishonesty that involve or relate to gambling
 - liaising and cooperating with other enforcement agencies
 - investigating complaints from members of the public.
62. Gambling Inspectors' functions and powers do not extend to all crimes. Inspectors do not have a mandate to deal with criminal activity in a casino unless it *involves or relates to gambling* (a term which the courts have said has a specific meaning), and even then typically only if it is *a crime involving dishonesty* (a term that is defined by reference to specific provisions in the Crimes Act 1961). Therefore, crimes such as assaults and drug dealing are not likely to fall within the scope of the Inspectors' functions and powers, even if they are related to loan sharking or money laundering in a casino. These crimes are the responsibility of the Police.
63. Loan sharking itself (but not a loan between friends) probably falls within the definition of a consumer credit contract under the Credit Contracts and Consumer Finance Act 2003. That Act is designed to protect the interests of consumers in connection with credit contracts. It requires creditors to make a written disclosure of key information relating to the contract, and includes other provisions to prevent the imposition of oppressive credit contracts. However, offences under the Credit Contracts and Consumer Finance Act 2003 are not *crimes involving dishonesty*. Therefore, the Commerce Commission, not the Department, is the relevant regulatory agency, even if the offence is associated with loan sharking that occurs in a casino.
64. On the other hand, the Department considers that it does have a mandate to deal with money laundering that occurs in a casino. Money laundering is *a crime involving dishonesty* under the Crimes Act 1961. The Department's view is that, when it takes place in a casino, it also *involves or relates to gambling*. Therefore, the Department considers that dealing with money laundering in a casino falls within the Gambling Inspectors' *functions*. However, realistically, their *powers* to deal with it are limited.
65. Under the Financial Transactions Reporting Act 1996, casinos are required to report suspicious financial transactions to the Police (rather than to the Department). In fact, the Department is not generally permitted to view these financial transaction reports. Therefore, the Gambling Inspectors can not determine whether casinos are complying with this aspect of their anti-money laundering obligations.
66. In addition, to determine whether a casino patron is laundering money would typically require an investigation into the source of that money (whether it is the proceeds of crime, for instance). The patron would probably have to be convicted for a primary (*predicate*) offence (eg drug dealing) before the Department could pursue a money laundering prosecution. Therefore, the Inspectors provide information to, work closely with, and initiate investigations by, law enforcement agencies like the Police and Customs whose functions and powers directly relate to such predicate offences.

Strategies and actions to counter undesirable and/or illegal activities

67. Since the coming into force of the Gambling Act, one focus of the Department has been to develop specialist intelligence, investigation and compliance units. These units in particular work closely with the Police and other law enforcement agencies, sharing information and cooperating on enforcement actions. The Department's initiatives in this area have on occasion resulted in significant prosecutions. For example, several key money laundering suspects that the Department identified in SkyCity Auckland Casino are currently facing drugs charges.

68. In another example, an investigation, involving Gambling Inspectors, the Police and Immigration, into an illegal gambling operation resulted in successful prosecutions. Information gathered at the time also assisted the Police in investigating a wider drug dealing operation. This resulted in 17 arrests and the seizure of methamphetamine with a street value of more than \$1 million, cash totalling close to \$NZ800,000, and miscellaneous weapons, ammunition and explosives.
69. In September 2006, in line with its new strategic focus, the Department began a project to determine the nature and extent of crime and criminality in New Zealand's casinos (specifically Auckland and Christchurch). The project seeks to understand how factors such as business practice, gambling culture, criminal methods and regulatory practice interact to create the conditions for crime and criminality to exist in the casino environment. The findings will allow the Department to formulate effective interventions that prioritise its regulatory efforts and address the issues holistically.
70. In work along similar lines but on a broader strategic scale, the Department is one of several agencies working with the Ministry of Justice and the Police to develop proposals for an organised crime strategy. It is also working with the Ministry of Justice on its review of the anti-money-laundering regime, and it participates in the Asia Pacific Group of the Financial Action Task Force on Money Laundering.
71. The strategic objectives of the Gambling Act also drive the Department's business as usual activities, only some of which are visible to the public.
72. In Queenstown, Gambling Inspectors have worked with both casino and non-casino gambling operators and problem gambling intervention services to establish a successful multi-venue exclusion initiative. This is becoming a model for other small communities and to date Matamata has followed suit, assisted by the Department.
73. In 2006, the Department successfully sought the suspension of the Dunedin Casino operating licence because it had failed to carry out its obligations in relation to the fraudster and problem gambler Christine Keenan. This was the first suspension of a casino licence in New Zealand, and may have been the first internationally.
74. In March 2007, the Department successfully prosecuted Christchurch Casino for knowingly permitting an underage person to enter the gambling area of the Casino.
75. From December 2005 to March 2007, the Department investigated, and subsequently submitted a lengthy report to the Gambling Commission on, convicted fraudster and problem gambler Patrick Jackson. While the report concluded that the SkyCity Auckland Casino had not directly breached any formal requirements, it also concluded that there was substantial room for improvement. Inspectors subsequently worked with the Casino to effect some immediate changes. The recommendations of that report also formed part of a strong submission to the Gambling Commission on how aspects of the Casino's host responsibility programme could be improved.
76. In other submissions to the Gambling Commission on SkyCity Auckland Casino's Host Responsibility Programme, the Department strongly recommended that the programme be amended to provide for clear action to be taken in relation to moneylending and/or loan sharking. It will make similar submissions in relation to the other casinos as the opportunity arises.
77. Moneylenders or loan sharks are clearly undesirable, and the presence of loan sharks in a gambling venue may be a sign that a gambling venue is not paying sufficient attention to its responsibilities to prevent and minimise harm. Minimum operating standards (MOS) for all casinos require them to notify Gambling Inspectors of suspicious activity in casinos including cheating, offences under the Act, crimes of dishonesty that involve or relate to gambling, and any other activity that could otherwise compromise the honesty or integrity of gambling in the casino.

78. Gambling Inspectors must be notified of casino staff or casino patrons suspected of undesirable and/or criminal activity. Standard operating procedures for SkyCity Auckland Casino based on the relevant MOS explicitly refer to loan sharking activity. Minimum operating standards are subject to an ongoing process of review to determine whether they are clear or robust enough. If they are not, the Department will consult on proposals to amend them.
79. The capability to undertake all the activities noted above is addressed in the current review of fees charged to gambling operators. The increased focus on undesirable and/or criminal activity in casinos has been evolving since the introduction of the Gambling Act. It has been limited to a certain extent by resources and the extent of the Department's powers and functions.

Enhancing the whole of government approach to dealing with undesirable and/or illegal activities

80. There are a number of options available that might enhance the whole of government approach to the issues discussed in this paper. They could be undertaken either separately or in tandem.

Undertake a targeted education and persuasion programme

81. The Department (possibly in partnership with the Police and the Commerce Commission) could undertake an education and persuasion programme that targeted gambling operators and particular community groups that were seen to be at risk. Depending on the group targeted, the content of the programme could include topics like:
- What is a loan shark
 - (If you are a gambling operator) how to recognise a loan shark and what the Gambling Act permits and/or requires you to do
 - Where to get help and advice if you have been 'caught' by a loan shark
 - Available legal remedies (eg for oppressive credit contracts) and agencies for redress (eg the Police, the Commerce Commission, the Department).

Propose amendments to casino licence conditions

82. The Gambling Commission has responsibility for considering and making amendments to casino licence conditions (section 139). However, the Department may request the Commission to consider changes to the conditions. The Department could prepare a submission recommending that licence conditions require all New Zealand casinos to have procedures in place that aim to prevent or minimise loan sharking activities in casinos. (This might not be strictly necessary in the light of the Gambling Commission's review of the casinos' host responsibility programmes and the Department's power to make minimum operating standards.)

Amendments to the Gambling Act

83. A stronger approach might be to amend the Gambling Act to explicitly empower the Department to deal with some of the issues raised in this paper. For example, amendments could be drafted that:
- explicitly empower the Department's Inspectors to deal with money laundering, including a consequential right to access financial transaction reports
 - empower the Department's Inspectors to *assist* in the detection, investigation and prosecution of organised crime that either occurs in, or is manifested by players' behaviour in, New Zealand's casinos (eg members of Organised Crime groups gambling large sums of money derived from dealing in drugs) - taking the lead on dealing with serious criminal conduct could still be left to the Police.
 - require gambling operators to prevent certain persons from entering and/or remaining in class 4 and casino gambling areas, for harm and/or crime prevention and minimisation purposes (eg moneylenders).
- Such amendments would be major policy changes that would normally require prior public consultation.

Public Inquiry

84. There have been calls for a public, parliamentary or independent inquiry into, variously, Christchurch Casino, loan sharks and casinos, or the whole gambling industry. However, it is not clear what such an inquiry might achieve.
85. The Gambling Act 2003 has already initiated a significant shift in the strategic approach to gambling in New Zealand, and in the strategic approach to the regulation of casinos in particular. The Department has already initiated a strategic approach to Issues such as loan sharking, money laundering and crime in and/or associated with casinos. That approach is still evolving and will continue to evolve.
86. The Department actively works with other law enforcement agencies on investigations and prosecutions relating to issues like organised crime and money laundering. In some cases, the Department has initiated these investigations. The Department is also involved in whole of government policy work on organised crime and money laundering, and seeks to ensure that any policy proposals adequately deal with the unique challenges of the casino environment.

Recommendation

87. The recommendation is that you note the contents of this report.

Keith Manch
Deputy Secretary
Regulation and Compliance Branch

/ /2007

APPENDIX 1: Report on Compliance Activity: Christchurch Casino Compliance Unit

<i>Purpose</i>	To provide an overview of the compliance activity undertaken by Christchurch Casino Inspectors.
<i>For</i>	Keith Manch, Deputy Secretary, Regulation and Compliance Branch
<i>Overview</i>	<p>The paper sets out an overview of regulatory activity undertaken by the Christchurch Casino Compliance Unit over the past two years.</p> <p>Christchurch Casino is the second largest casino in New Zealand¹ and the first to open, in 1994. There are five fulltime Inspectors based in the Christchurch Casino Compliance Office providing seven day-a-week coverage for core operating hours. Inspectors work 10 hour shifts, of which at least half of the time is spent physically in the Casino.</p> <p>Overall Christchurch Casino has had high levels of compliance. Where gaps or decreases in compliance are detected, the Inspectorate takes appropriate action to ensure high levels of compliance are restored. This report covers regulatory activity undertaken by Inspectors under six areas:</p> <ul style="list-style-type: none">• Audit• Incidents investigated• Reducing opportunities for crime• Harm minimisation• Intelligence• Other Activity.

¹ SkyCity Auckland being the largest

Audit activity

Prior to the Gambling Act, Audit activity was the primary focus of regulation in terms of operator compliance. The introduction of a more stringent regulatory regime under the Gambling Act 2003 has seen a shift of focus and the introduction of a broader range of other regulatory tools.

The Audit Programme is still a key education and persuasion tool within the casino context. Audit results are summarised and discussed monthly with operators, with areas for non-compliance highlighted, and followed up in the next audit period. The Audit Programme's focus is to maintain operators' compliance in key regulatory areas. It generally shows that operators are compliant across the areas audited.

The Audit Programme targets areas of risk in casino processes and ensures the controls and systems in place to mitigate risks are operating effectively. The number of audits conducted from month to month is based on an assessment of previous audit results, risk and other compliance activity priorities, such as investigations (see below).

Christchurch Compliance Unit has completed regular monthly audits in key areas covered by the Audit Programme and is on track to meet its annual audit requirement. An example of a monthly audit is provided in the table below, and shows the number of audits completed for May 2007 at Christchurch Casino under a number of audit categories.

May 2007 Audits	Number
Counts and Drops (counting of money)	5
Equipment (Covers Gaming machines and other gaming equipment)	22
Gaming Operations	6
Incident Reviews (Reviews how casinos have handled reported incidents – surveillance for example)	135
Problem Gambling – (reviews casino identification and exclusion processes, and other Harm prevention requirements)	1
Training	15
Table Game Operations (reviews table games played to ensure they follow game rules)	840

Note the large number of some audits is a reflection of the type of audits e.g. the statistical sampled audits are of audits that cover processes that occur frequently or have a large number of transactions – e.g. hands of blackjack. Targeted Audits target areas that do not have a large number of transactions or do not occur frequently, or require more in-depth analysis – e.g. Problem Gambling audit.

Incidents investigated

Investigation of incidents that occur in casinos is another key role for Inspectors. Incidents include breaches of the Gambling Act and other delegated legislation relating to Gambling, such as regulations and game rules and investigating and resolving patron complaints.

The table below displays some of the more frequent incidents (i.e. the top 5 incident types) investigated by Christchurch Inspectors from July 2006 to June 2007.

Incidents July 06-June 07	Total
Breaches of exclusion orders	39
Other offences – e.g. thefts, assaults, child neglect	25
Minors found on casino	25
Patron complaints	6
Cheating	7
Total	102

These incidents can vary from low level breaches, requiring little investigation to more complicated breaches requiring intensive investigation. Some of these more complex investigations are discussed below.

Significant Investigations reducing opportunities for crime / breaches of the Act

The Gambling Act introduced the requirement for Inspectors to detect, investigate and prosecute gambling act offences and those crimes act offences which relate to gambling. It also requires inspectors to liaise and cooperate with other enforcement agencies. Since the introduction of the Act, a number of investigations and joint agency operations have been conducted resulting in some significant enforcement outcomes. These operations have contributed directly to the objectives set in the Act, such as preventing and minimising harm and limiting opportunities for crime related to gambling.

Jemima

Operation Jemima was the investigation of an illegal gambling operation, which was based on casino type games. This investigation was a good example of a DIA led operation which relied on cooperation between DIA, Police, Fisheries and Immigration. It also involved cooperation from the Casino operator. While Operation Jemima was Auckland-based, Christchurch Inspectors contributed significantly to the operation, particularly in the termination phase.

Result

The investigation resulted in the closure of an illegal gambling operation and successful prosecution of the offenders who operated the illegal gambling. The offenders received significant fines, including \$12,000 for the principal offender. The operation received positive national media coverage.

Operation Mule/Wisdom

Christchurch Inspectors provided information to Police Fraud squad investigators relating to two suspects involved in a \$1.2m fraud investigation. The investigation resulted in the arrest of one of the suspects at the Christchurch Casino. This operation also involved identity theft and suspected money laundering. It should be noted that the Christchurch Inspectors worked with the Casino's surveillance unit to gather the information.

Christchurch Asian Drug investigation

Six months surveillance by Christchurch Inspectors, contributed to the Police and customs arresting 13 alleged drug dealers. They faced various charges relating to supplying and possession of drugs and were part of a major nationwide drug syndicate.

Kiwicasino – remote interactive gambling

The investigation into Kiwicasino, (an internet based gambling site) centred on whether Christchurch Casino's business relationship with Kiwicasino breached section 19 of the Gambling Act (illegal remote interactive gambling).

The investigation involved complex analysis of Christchurch business relationships, and technical issues relating to the internet. The investigation was one of the first of its kind under the Gambling Act. The investigation findings were that Kiwicasino was operating in contravention of the Gambling Act.

Result

Christchurch Casino subsequently ended its association with Kiwicasino, given the findings of the Christchurch investigation.

Preventing and minimising harm

Prosecution of Casino for Underage Gambling

Christchurch Casino was the first casino to be prosecuted for allowing a minor to remain on the casino. Christchurch Casino strongly defended the allegations, and challenged the Department's decision to prosecute. It intimated that it would defend the charges in court.

Result

Christchurch was successfully prosecuted. After pleading guilty to the charges, it was ordered to pay \$1000 to the local Salvation Army.

Significantly, this was the first prosecution of a casino under the Gambling Act, and was important in terms of preventing and minimising harm, given the links between harm prevention and underage gamblers.

This was an area where inspectors detected reduced levels of compliance and took action to ensure the Casino met its obligations under the Act. Christchurch Casino has since improved compliance in this area following the prosecution action. It is an area of risk, which Inspectors regularly audit and monitor.

Exclusion Orders

Christchurch Casino issued **163** exclusion orders between June 2006 and May 2007. Noteworthy is that a large percentage of these orders are imposed by the Casino rather than being a result of a request by a gambler to self-exclude. This would indicate Christchurch Casino taking a pro-active approach to identifying and excluding problem gamblers, a responsibility under the Act which is closely monitored and audited by Inspectors.

In this period of time, the Casino has identified and notified the inspectorate of **39** breaches of exclusion orders. The inspectorate interviews those breaching exclusion orders and takes a range of actions to deter further breaches of their orders.

Since the introduction of the Gambling Act, Christchurch Casino has excluded a total of **485** patrons for problem gambling.

Intelligence

Intelligence collection and analysis plays a significant role in the work of Inspectors. For example, in the last 12 months, Christchurch staff have submitted **104** intelligence reports to the Department's Intelligence unit.

Intelligence reports may often lead on to or contribute to significant investigations being undertaken by other agencies such as those described above. In addition, DIA contributes to limiting opportunities for crime in the following ways:

Metos

Christchurch Inspectors played a key part in initiating Project *Metos* which is a long-term evaluation of crime and criminality in Christchurch and Auckland Casinos. Project *Metos* has involved in-depth information collection, including interviews with government agencies, casino operators and community agencies (including PGF).

Project *Metos* was initiated prior to recent allegations made by ex-casino staff.

Interagency Work

Christchurch Inspectors play a full and active part in interagency law enforcement initiatives. We have received good feedback from other officials about the involvement of DIA Gambling Inspectors.

Other Activity ***Whole of Government approach***

Inspectors meet regularly with a number of government agencies to ensure a whole of government approach to not only gambling related crime but immigration and border security. This approach has resulted in some of the successful operations mentioned above (e.g. Mule/Wisdom).

Education and Persuasion

Inspectors undertake regular training sessions with casino staff, for example training casino staff on dealing with minors, breach of exclusion orders notification requirements and legislation related to gambling. They also provide training and information to other government agencies, organisations such as Language Schools and problem gambling providers on the Act and the role of DIA inspectors.

APPENDIX 2:

Recent History of Casino Regulation

PAST (Pre-Gambling Act 2003)

- Prior to the Gambling Act 2003, the Department's regulatory functions in relation to casinos were limited to (1) an inspection role, focused mainly on internal controls, audits, patron complaints, and assisting in the detection of offences against the Casino Control Act [Casino Control Act 1990 (CCA), section 83] and (2) the issue of Certificates of Approval to certain casino staff (CCA, part III). Essentially it was a limited monitoring role, delivering only on narrow output requirements. For example, there was no emphasis on the prevention and minimisation of gambling-related harm. The Department operated an international best practice model in relation to its auditing functions, but this model was very much within the parameters of the legislation.
- The Casino Control Authority (the Authority) likewise exercised its licensing and approval functions in a limited capacity. It focused on the licensing of casinos to promote "tourism, employment, and economic development" (CCA, section 5). In relation to harm prevention and minimisation, it had only to be satisfied that social impacts of the casino would not be "unduly negative" (CCA, section 30). It relied largely on external sources for technical advice, for example about game fairness and probity or equipment approvals. In relation to some of its functions (eg making game rules) there was no consultation requirement.
- The Department did not have a major role in Authority deliberations – for example it was seldom invited to make submissions on applications to the Authority.

CURRENT (Post-Gambling Act 2003)

The current regulatory environment and compliance strategy

- The Department's current compliance strategy is more integrated and holistic in its approach to casino regulation. It is driven by both the specific purpose of the Act and the Safer Communities outcomes of Government.
- The Act's *purpose section* (section 3) encompasses broad themes relating to integrity and fairness, crime prevention and enforcement, and the prevention and minimisation of gambling related harm.
- In relation to *crime prevention and enforcement*, the Act mandates a broader role for the Department. In keeping with a whole of government approach, the Department has embarked on a series of cooperative initiatives with other enforcement agencies. In each case, the principals engaged in the criminal activity have been actively connected to gambling activity at New Zealand based casinos.
- The Act mandates a broad public health approach to *harm prevention and minimisation*. This means looking at factors influencing harm that are broader than the affected individual (eg family, community, gambling environments and products) and involves the Department in broad dialogue with community representatives, service providers, government agencies and the gambling sector about how harm can be prevented and minimised.

- The high level of public, commercial, government and media interest around casinos leads to *high stakeholder expectations* that the Department will be a sophisticated and competent regulator. Driving up the quality of regulatory practices has been central to the Department's strategic direction since the Gambling Act came fully into force and that has included an investment in casino regulation. The level of investment in policy, intelligence, investigations and stakeholder management required to operate effectively within the casino environment, has grown significantly.
- The *public* (including those working in the problem gambling area) have high expectations of the regulator. We are expected to be knowledgeable on harm prevention and minimisation matters, to keep in touch with local communities, and to put in place appropriate and effective interventions. Both the Department and casino operators have undergone a steep learning curve in respect of harm prevention and minimisation issues.
- In order to improve the quality of its regulatory practices and become an exemplar regulator, the Department needs to continually enhance its understanding of the requirements of *effective casino regulation in an international context*. The Department works closely with other government agencies, Australasian and other international jurisdictions, to enhance its enforcement, intelligence, and policy tools and learn from the example of others. The Department is also a member of the Australasian Casino and Gaming CEO Regulator's Forum and has staff participate in working parties supervised by this committee.
- Our drive to increase quality has increased the need for *support functions*, such as intelligence and investigations. There is also a significant requirement for specialists – both internal and external to the organisation.
- *Compliance and legal costs* have increased significantly due to the costly nature of enforcement action² and the litigious nature of the casino sector as a whole. Legal costs are likely to increase further as a result of court action to resolve a number of areas of uncertainty in the Act. The Gambling Commission takes a very cautious and legalistic approach in its determinations, requiring a Department response that is fully supported by appropriate legal expertise. An increase in harm prevention and minimisation issues requiring legal input is also anticipated.

Casino regulatory functions under the Gambling Act

- The Act introduced a number of *functional changes* that had the effect of increasing the Department's workload in relation to casino regulation. A number of functions transferred from the Casino Control Authority to the Secretary for Internal Affairs. These included:
 - Making, amending and revoking game rules for casino games (section 367);
 - Making, amending and revoking minimum standards for gambling equipment used in casinos (section 327);
 - Making, amending and revoking minimum operating standards for casinos (section 141);
 - Approving casino gambling equipment (section 326);
 - Assessing the suitability of associated persons in relation to casino licences (section 149);
 - Other approval functions, including approval of group commission programmes, offsite storage of documents and gambling equipment, etc (e.g. sections 177, 181).
- As well as these transfers of function, the requirements for exercising some of the functions changed substantially under the new legislation. Unlike the Authority, the

² As demonstrated by the Department's application for suspension of the Dunedin Casino licence.

Secretary is required to consult affected parties before making certain decisions (eg a decision on game rules or minimum standards) (section 372). The requirement to consider the purpose of the Act in exercising the Department's functions means that the Secretary has to carefully analyse all applications in terms of that purpose. It also considerably extends the potential number of parties affected by a decision. For example, applications for new game rules, minimum standards or minimum operating standards have to be assessed against harm prevention and minimisation criteria. It may be necessary to consult affected parties such as problem gambling service providers.

- The Secretary has taken a more rigorous approach to the *approval of casino equipment* than that formerly exercised by the Authority. Instead of relying on approvals from Australasian regulators, as the Department understands the Authority did, the Department ensures that each application is carefully assessed for compliance with the relevant New Zealand standard. This reflects the purposes of the Act, takes advantage of the technical expertise employed by the Department, and brings casinos into line with class 4 gambling.
- The *functions and powers of inspectors* were extended to include detecting, investigating and prosecuting offences (not merely "assisting in detection") and to cover both Gambling Act offences and crimes involving dishonesty relating to gambling (Subpart 6). This has involved the Department in a series of major investigations, both internally and involving other agencies.
- Unlike the Authority, the *Gambling Commission*, which now exercises casino licensing functions, typically calls for submissions from the Secretary in relation to every application it hears. Considerable work is involved in the preparation and peer review of these submissions. Types of applications range from the deployment of new games or devices, the location, number and standard of cashiering or surveillance facilities, and the content of Host Responsibility Programmes through to the wholesale review of a casino's licence conditions.

Major investigations

- Illegal casinos potentially have a significant negative impact on a community in respect of the harm that can be caused through unregulated gambling. Organised crime, problem gambling and the proliferation of crime to meet gambling debts are all potential results from illegal gambling operations. Action to prosecute illegal casino operators protects the interests of all licensed gambling operators – casino and non-casino. Examples of the Department's results in this area are referred to in the main report.
- In support of the crime prevention purposes of the Act and Government's Safer Communities outcome, we have supported police in the investigation of serious crime and initiated our own investigations where there is a direct link to gambling.
- The Department has taken a strong stance on ensuring that casino operators meet their requirements to provide responsible gambling environments and adhere to harm prevention and minimisation obligations. To that end the Department has been involved in some significant investigations, along with the implementation of a strategic approach to making a positive difference to communities in this area. Investigations include the Keenan and Jackson cases referred to in the main report.

Inter-agency activities

- DIA is seen by other government agencies as the key player in the casino environment, with a requirement for strong linkages with other agencies. By contrast, most international jurisdictions have a dedicated gambling regulatory agency with a role that is confined to

strict adherence to casino controls, as opposed to the broader approach taken by the Department. In some jurisdictions there is a separate policing arm attached to the regulatory function that deals with the criminal aspects of the casino environment.

- The Department is undertaking a strategic intelligence project that involves an in-depth study of the current state of crime or suspected crime in NZ casinos (Christchurch and Auckland). The expectation of this work is that it will provide a sound basis from which to involve casino operators in implementing crime prevention strategies and to properly address any current crime concerns. There are international dimensions to the issues and DIA is demonstrating leadership within this context.

Benefits for Casinos arising from effective regulation

- Assurance that gambling is fair, lawful and has integrity for the community and casino patrons.
- Clear messages that the casino is working pro-actively and co-operatively with the Department to prevent gambling related crime support the casino as a reputable business and good corporate citizen.
- As casinos demonstrate a clearer intention to work more closely with the regulator to maximise compliance, they stand to make reputational gains. As well, there is an opportunity for the Department to facilitate productive relationships with community groups and help agencies, in doing so ensuring the effectiveness of regulation.
- As overall compliance increases there is a lower likelihood of sanctions.
- As the regulator and the casinos are seen to be more in alignment with the outcomes of the Act there will be greater confidence by overseas investors to invest in casinos. New Zealand will be viewed as a “safe” regulatory environment and casinos’ commercial viability will be enhanced.

APPENDIX 3: Loan Sharking – A Department of Internal Affairs Discussion Paper

Executive Summary

1. This paper discusses *loan sharks* and gambling. A *loan shark* is a person or entity that offers loans at very high interest rates, typically illicitly and with little or no security. Repayment is often enforced by blackmail, or threats of or actual violence.
2. Based on research, information from the Department of Internal Affairs (DIA) Casino Compliance and Intelligence Units and the Police, media reports and reports from problem gambling counselling agencies, DIA believes that gambling-related loan sharking takes place in New Zealand, particularly in New Zealand's casinos. DIA also believes, on the basis of information from these same sources, that loan sharking is often linked to organised crime (particularly Asian organised crime) and money laundering, and facilitates problem gambling.
3. While the recent media focus has been on loan sharks, DIA notes that they are just one end of a continuum. Other 'fringe lenders', such as pawnbrokers, second-hand dealers and high interest finance companies might be less likely to have links with organised crime and money laundering, but still facilitate problem gambling.
4. Other key points to note are:
 - Loan sharking is not itself illegal under the Gambling Act 2003, although the presence of loan sharks in a gambling venue may be a sign that the venue is not paying sufficient attention to its legal responsibilities and to the Act's objectives.
 - There are remedies under other Acts for loan sharking (and a recently-introduced bill should strengthen these), and for any associated criminal activity. However, the relevant law enforcement agencies typically do not have a presence in casinos.
 - Some sections of the community that are particularly vulnerable to loan sharking (eg recent Asian immigrants and international students) may not be familiar with and might have limited faith in the New Zealand legal system, and might be reluctant to seek help for cultural, personal and/or legal reasons.
5. Two key objectives of the Gambling Act 2003 are to prevent and minimise the harm caused by gambling and to limit the opportunities for crime associated with gambling. In September 2006, in line with this new strategic focus, DIA began a project to determine the nature and extent of crime and criminality in New Zealand's casinos (specifically Auckland and Christchurch). The project seeks to understand how factors such as business practice, gambling culture, criminal methods and regulatory practice interact to create the conditions for crime and criminality to exist in the casino environment. The findings will allow DIA to formulate effective interventions that will prioritise regulatory efforts and address the issue holistically.

6. In work along similar lines but on a broader strategic scale, the Ministry of Justice and the New Zealand Police are developing proposals for an organised crime strategy. The Ministry of Justice is also working on a range of measures designed to combat money laundering, and casinos are one environment that is targeted. DIA is one of the agencies involved in these pieces of work.
7. DIA's Inspectors of Gambling are well placed to take on additional responsibilities in relation to loan sharking, organised crime and money laundering that either occurs in, or is manifested by players' behaviour in, New Zealand's casinos. However, some of these responsibilities might require legislative change to explicitly empower Inspectors to take on functions that are broader than ensuring compliance with the Gambling Act 2003. Other options for addressing the issues discussed in the paper include a targeted education and persuasion campaign, and amendments to casino licence conditions.

Loan sharks – What are they?

8. A *loan shark* is a person or entity that offers loans at very high interest rates, typically illicitly and with little or no security. Repayment is often enforced by blackmail, or threats of or actual violence.
9. Loan sharks are one end of a continuum. DIA believes that loan sharking is often linked to organised crime and money laundering. It certainly facilitates problem gambling (anyone who borrows from a loan shark in a gambling venue is likely to have lost all the money they had immediately available to them from legitimate sources). Other 'fringe lenders', such as pawnbrokers, second-hand dealers and high interest finance companies might be less likely to have links with organised crime and money laundering, but can still facilitate problem gambling.

Loan sharks in New Zealand – What do we know?

General population

10. The 1999 New Zealand Gaming Survey³ (a survey of 6,400 adults undertaken by Abbott and Volberg in partnership with Statistics New Zealand) estimated that, from the total adult population, 1,712 adults had, at some stage in their lives, borrowed money from a loan shark to get money for gambling or to pay gambling debts. *Loan shark* was not defined, so we cannot be certain what respondents meant by the term. Nevertheless, it is worth noting that only two of New Zealand's six casinos had opened at the time of the Survey, that there were only around 14,000 non-casino gaming machines compared with around 20,000 in 2007, and that the Survey predated significant Asian immigration and a significant influx of international students to New Zealand.

³ M.W. Abbott & R.A. Volberg, *Taking the Pulse on Gambling and Problem Gambling in New Zealand: A Report on Phase One of the 1999 National Prevalence Survey*, Department of Internal Affairs, Wellington, June 2000.

11. Other Survey estimates that are noteworthy include:
 - 3,860 adults had borrowed money at some stage in their lives from banks or financial institutions to get money for gambling or to pay gambling debts, with 1,696 having done so in the six months prior to the Survey
 - 22,791 had obtained money from credit cards at some stage in their lives to get money for gambling or to pay gambling debts, with 10,757 having done so in the six months prior to the Survey; and
 - 3,566 had bounced cheques at some stage in their lives to get money for gambling or to pay gambling debts.
12. DIA notes that the questions that generated these results are all standard items in the South Oaks Gambling Screen (SOGS), a long-established problem gambling screen. The very fact of their inclusion in a standard screening instrument is a pointer to the strong links between gambling-related borrowing and problem gambling.
13. A recent small New Zealand pilot study⁴ on the socio-economic impacts of gambling noted that they included a drop in living standards for gamblers and their family/whanau, because there was less money to spend on the basics such as food, clothing and school fees. Some interviewees had lost their jobs, been evicted because of debt, had cars repossessed, had the power and phone disconnected, and/or had sold possessions. Others mentioned borrowing from friends, family/whanau members and lending institutions. Interviewees of Tongan descent stated that their financial problems had led them to pawn Tongan crafts and left them unable to meet community obligations. Some Chinese students had used their study funds to finance their gambling, meaning that they had to return to China.
14. Interviewees also highlighted the fact that people on lower incomes typically have access to loans and credit only from sources that charge high interest rates, that charge heavy penalties for late payment, and that employ marginally legal means of recovering debts. Interviewees commented that legitimate but expensive sources of credit are frequently located in low-income areas and close to gaming machine venues. They stated that pawn shops now accept a wider range of goods, including cultural items like taonga or fine mats. Gambling-related crimes discussed included money laundering, kidnapping (particularly in the Asian community) and prostitution.

Excerpts from interviews quoted in the pilot study

“I’ve lost some of my Tongan crafts at the Pawnbrokers because we went to pawn it to get some money so we could go to the casino and then I couldn’t keep up the payments so we lost it.” [Female heavy gambler, 25+]

⁴ *Socio-Economic Impacts of Gambling: Developing a Methodology for assessing the socio-economic impacts of gambling in New Zealand*, Centre for Social and Health Outcomes Research and Evaluation, Massey University, Auckland, February 2006.

“I’d get loans from finance companies with no intention of paying it back, or didn’t care what the interest rate was, as long as I got the money. Within two days, I’d blown the loan, and I had no way of paying it back. So financially, my parents or my family would have to bail me out of that and pay it for me. It got to the stage where I was selling my cars and furniture.” [Male heavy gambler, Pakeha, 25+]

Asian population

15. Many of the incidents referred to in the recent media coverage on loan sharks involves Asian people. A 2003 journal article notes that gambling is interwoven in Chinese culture and social traditions.⁵ The article also notes that gambling provides recent Asian migrants with an opportunity to socialise and meet new friends. It can be a way of coping with the problems encountered with settling in a new country. At the same time, inexperience with commercial gambling, isolation, language problems and other adjustment difficulties, and ignorance of New Zealand laws and legal remedies can make Asian migrants more vulnerable to developing gambling problems.
16. *The New Zealand Herald* recently carried a summary of research undertaken by Wendy Li, a postgraduate student at Waikato University. Ms Li interviewed 12 mostly polytechnic or university students who had arrived in New Zealand on student visas. Some of the students indicated that they gambled from 10 hours up to three days in a row. Their gambling had badly affected their studies, finances and health, with some experiencing homelessness and approaching loan sharks.
17. John Wong, an Asian counsellor with the Problem Gambling Foundation (and joint author of the journal article referred to in paragraph 15 above), was more recently interviewed on National Radio about his experiences working with problem gamblers.⁶ He stated that there were two levels of loan sharking in the Auckland Casino, one in the VIP room, which charges 6-8% interest per week, with \$10,000 being the minimum amount loaned. He said that the other level is on the main floor of the Casino, where Chinese international students are targeted and the minimum loan amount is \$1,000. Mr Wong reported that his clients had little knowledge of the New Zealand legal system (in terms of available remedies) or of their ability to go to the Police when they are being threatened for failing to keep up with payments.

Tongan population

18. In December 2002, the Pacific Peoples group within the Auckland Regional Public Health Service conducted an 18-month study of problem gambling among Tongan people in Auckland.⁷

⁵ J. Wong and S. Tse, “The face of Chinese migrants’ gambling: A perspective from New Zealand”, *The Electronic Journal of Gambling Issues*, Issue 9, October 2003.

⁶ Interview with Kathryn Ryan, 20 June 2007.

⁷ Y. Guttenbeil-Po’uhila, S. Tu’itahi, T. Htay, and J. Hand, *Gambling Issues in the Tongan Community*.

19. The study found that for many of Auckland's Tongan migrants, the dream of a better life in New Zealand had been transferred from participation in the economy and social life to participation in gambling and gambling venues (Auckland SkyCity Casino, pokies, TABs, Lotto). Gambling was seen as a logical and realistic way to improve their generally low socio-economic status, fulfil obligations, and share with family, friends and the church. This is because in Tongan culture, winning is seen as a reward, and a blessing or endorsement from God, and gambling is seen as a benign activity, participation in which can result in winning.
20. However, with the ease of access to gambling and the location of gambling venues in low socio-economic areas of Auckland, and a general lack of education and understanding of gambling and the availability of legal assistance, gambling has now become a major health and social issue among the Tongan community. The report referred to other research indicating that the prevalence of problem gambling was six times higher among Pacific people than New Zealand Europeans.⁸ It also cited research reporting on interviews of visitors to Auckland's SkyCity Casino indicating that 16% of the Pacific visitors had been there 11 or more times in the previous month.⁹
21. Efforts to fund and maintain gambling habits have introduced the Tongan community to numerous ways to obtain money. Tongan pawnbrokers and small personal loan outlets have seen a significant growth in clientele as a result. Some of the smaller loan outlets have very loose credit criteria. Interviewees mentioned cultural goods with traditional value being sold to pawnbrokers or used as security on loan agreements. In more serious instances, mortgage sales, evictions, repossessions and the disconnection of household utilities were reported. Loan sharks were also mentioned as a source of fast cash. (It is worth noting that these findings corroborate the findings of the small pilot study discussed above.)

Prison Population

22. The 1999 New Zealand Gaming Survey also included two surveys of the gambling habits of New Zealand's prison population.¹⁰ (The surveys focused on their gambling behaviour prior to their imprisonment.)
23. In response to being asked whether they had ever borrowed money from a loan shark to get money for gambling or to pay gambling debts, 38 male prisoners (11%) said that they had. In response to the same question relating to the period six months prior to imprisonment, 26 male prisoners (8%) said that they had. The results for the female population were rather lower, with 4% saying that they had borrowed from a loan shark at some time in their lives, while 2% said that they had done so in the six months prior to their imprisonment.

⁸ M.W. Abbott & R.A. Volberg, *Taking the Pulse on Gambling and Problem Gambling in New Zealand: A Report on Phase One of the 1999 National Prevalence Survey*, Department of Internal Affairs, Wellington, June 2000.

⁹ Australian Institute for Gambling Research, *Study of the Social and Economic impacts of New Zealand Casinos*, AIGR, Sydney, 1998.

¹⁰ M.W. Abbott and B.G. McKenna, *Gambling and Problem Gambling Among Recently Sentenced Women Prisoners in New Zealand*, Department of Internal Affairs, Wellington, December 2000; and M.W. Abbott, B.G. McKenna, and L.C. Giles, *Gambling and Problem Gambling Among Recently Sentenced Males in Four New Zealand Prisons*, Department of Internal Affairs, Wellington, December 2000.

DIA Experience

24. DIA's Intelligence Unit has assembled evidence suggesting that moneylending may be occurring in New Zealand's casinos, both in the open and in areas that are out of sight (such as in casino toilets). During one investigation, Gambling Inspectors witnessed several incidents in the Auckland Casino involving someone who appeared to be a moneylender. When a search warrant was subsequently executed on premises at which an illegal casino had operated, this person was found in possession of 16 predominantly Chinese, New Zealand and Malaysian passports. When questioned about them, he stated that they belonged to people who owed him money. In another incident several years ago, a Gambling Inspector interviewed an Asian woman in the Auckland Casino who had a notebook with lists of names and dates, and carried a large array of jewellery and watches.
25. DIA is currently seeking further information from a number of sources (eg all casino operators, the Problem Gambling Foundation, the New Zealand Police) on moneylending activity. More particularly, information is being sought on:
- The number of patrons removed for suspected moneylending activity occurring within casino premises
 - The number of reports received from patrons, staff and external sources relating to loan sharking activity
 - The approaches taken to identifying and dealing with moneylending activities that might be occurring within casinos or related to casinos; and
 - Casino host responsibility/harm prevention policies/strategies that deal with issues of moneylending.
26. However, based on the evidence that is currently available, DIA considers that loan sharks operate in New Zealand's casinos and facilitate (or are linked to) organised crime, money laundering, and problem gambling.

Relevant legislation

27. A key point to be made again here is that while New Zealand laws offer relief and remedies for loan sharking (and its associated intimidatory behaviours), some sections of the community (such as Asian and Pacific people) do not know of them, are reluctant to use them, and/or are unaccustomed to using them.
28. Another key point is that, while there are legislative remedies for loan sharking and for any associated criminal activity, the relevant law enforcement agencies typically do not have a presence in casinos. DIA, on the other hand, does.

Gambling Act 2003

29. The Gambling Act 2003 does not specifically prohibit loan sharking activities. It is an offence under section 15 of the Act for those conducting gambling to knowingly provide credit for gambling, but this is not relevant to loan sharks lending money for gambling (because they are not the gambling operators).

30. However, casino and class 4 venues do have a responsibility under the Act to provide safe gambling environments without pressure or devices designed to encourage gambling at levels that may cause harm. The Act requires casinos and non-casino gaming machine venues to develop policies for identifying problem gamblers and requires those licensees to implement their policies (sections 308 to 312). (As noted earlier, borrowing money at a gambling venue is a potential sign of problem gambling.) It also allows casinos to exclude anybody without providing a reason (section 307). *The New Zealand Herald* reported on 23 June 2007 that the Auckland Casino had excluded 2 loan sharks from its premises, which would have been an exercise of this power.
31. DIA notes that the Gambling (Harm Prevention and Minimisation) Regulations 2004 prohibit ATMs from casino and class 4 gambling areas, in order to prevent or minimise impulsive decisions to access fresh money supplies for gambling. However, there is no power to make similar regulations barring loan sharks from the gambling area. In any case, the focus of the Act is to task gambling operators with ensuring that venues conform to the Act's harm prevention requirements, and as discussed in paragraph 30 above, they already have adequate powers to do this. The key difficulty is that loan sharks are often gamblers themselves, and may be difficult to detect for this reason (among others).

Credit Contracts and Consumer Finance Act 2003

32. The Commerce Commission enforces this Act. It is designed to protect the interests of consumers in connection with credit contracts, and provides for the disclosure of adequate information to consumers, and for rules about interest charges, fees, and payments. It is also designed to prevent oppressive credit contracts, and to enable consumers to seek reasonable changes to consumer credit contracts on the grounds of unforeseen hardship.
33. Other requirements include:
- Lenders must provide accurate information in writing (a disclosure statement, which must be provided either before the contract is made or within 5 working days) about what the loan will cost eg repayments, interest and how it is calculated, fees
 - A cooling off period for 3 working days after receipt of the disclosure statement (during which the borrower can cancel the contract)
 - Provisions specifying how lenders must calculate the interest rate and that it must be explained in the contract (but there is no limit on the interest rate)
 - That fees must be reasonable and be linked to lenders' costs of providing the contract.
34. If the terms of the contract are oppressive (the Act defines oppressive as meaning oppressive, harsh, unjustly burdensome, unconscionable, or in breach of reasonable standards of commercial practice), the borrower can go to a disputes tribunal or to court, which can require the lender to change the terms.
35. The Commerce Commission has the power to prosecute if there are breaches of the Act, and offences carry fines of up to \$30,000. The Commission can also ban a person from providing credit or being a director or employee of a company providing credit.

36. The recently-introduced *Financial Service Providers Registration and Disputes Resolution Bill* will require all financial service providers, including fringe lenders to register and meet negative assurance checks (ie they must have no criminal convictions, not be undischarged bankrupts, and not be subject to a director/manager banning order). They will also have to be members of a disputes resolution scheme. The Bill is expected to pass in 2008 (according to the related Cabinet paper on the Ministry of Economic Development's website). The Bill proposes offences with penalties of up to 2 years in prison or fines of up to \$100,000 (individuals) or \$300,000 (body corporates).

Secondhand Dealers and Pawnbrokers Act 2004

37. The purpose of this Act is to make it harder for criminals to dispose of stolen goods through secondhand dealers and pawnbrokers and make it easier for the Police to recover stolen goods and solve property crimes. To achieve this, the Act creates a new licensing regime and places greater responsibility on those who deal with certain secondhand goods and those who enter into pawnbroking arrangements.
38. A secondhand dealer is someone who is engaged in buying (for the purpose of trade) selling, exchanging, or otherwise dealing in secondhand articles or scrap metal; and who is not a pawnbroker or the employee of a secondhand dealer. A pawnbroker is a person (including a company or partnership) who, in expectation of profit, gain, or reward, lends money on the security of goods of which the person takes possession, but not ownership, and who is not a secondhand dealer.
39. Secondhand dealers and pawnbrokers must be licensed (unlicensed dealers and pawnbrokers can be fined up to \$20,000), listed on a public register, and must conform to certain disclosure and record keeping requirements (eg pawnbrokers must describe all charges as an interest rate).

Related work underway

40. Two key objectives of the Gambling Act 2003 are to prevent and minimise the harm caused by gambling and to limit the opportunities for crime associated with gambling. In September 2006, in line with this new strategic focus, DIA began a project to determine the nature and extent of crime and criminality in New Zealand's casinos (specifically Auckland and Christchurch). The project seeks to understand how factors such as business practice, gambling culture, criminal methods and regulatory practice interact to create the conditions for crime and criminality to exist in the casino environment. The findings will allow DIA to formulate effective interventions that will prioritise regulatory efforts and address the issue holistically.
41. DIA (and other law enforcement agencies) consider that loan sharks are linked with organised crime and money laundering (as well as facilitating problem gambling). The Ministry of Justice and the New Zealand Police are currently leading work on the development of an organised crime strategy. DIA is involved in this work.

42. In relation to gambling, DIA has advised the Ministry of Justice as follows:

“Gambling - casinos

The Department, together with the NZ Police, holds a significant amount of evidence that demonstrates organised groups, predominantly of Asian ethnicity, frequenting New Zealand casinos for the purposes of criminal networking, money laundering and social gambling using illegitimate funds.

Whilst the predominant organised groups are of Asian descent, specifically Chinese, Vietnamese, Thai and Malay, the Department is also aware of other groups such as ethnic gangs, motorcycle gangs and international crime entities also frequenting casinos for the same purposes.

Much of the OC [organised crime] problem identified is transnational in nature and is focused on gambling activities and cash exchanges that enables money to be laundered by individual criminals and criminal groups. Any intervention by the Department requires a coordinated response between multiple agencies, including but not limited to Police, Customs and Immigration.

Gambling – non casino

The Department holds anecdotal information that suggests OC groups, particularly ethnic gangs, are involved in organising illegal gambling, as well as scamming grants from Societies who operate gaming machines in pubs and clubs.

The Department is also focusing currently on specific examples of what may be OC activity by:

- assessing the behaviour of commercial gambling entities allegedly skimming off gaming machine proceeds, through what may appear to bona fide management companies.*
- working with police to investigate activity, across several regional areas, where a gang of offenders are breaking into gaming machines to access gaming machine moneys. While only two persons have been arrested, it is suspected they are part of a street level organised gang.”*

43. DIA has also advised the Ministry that:

“Particularly outside Police and Customs, legislation tends to focus on subject-specific functional areas, rather than taking the whole of government approach that is necessary to deal with an issue like OC that is not confined within tidy subject-specific boundaries. For example, the Department's gambling inspectors are ideally placed to assist in the detection, investigation and prosecution of organised crime that either occurs in, or is manifested by players' behaviour in, New Zealand's casinos (eg members of OC groups gambling large sums of money derived from dealing in drugs). And in fact, the inspectors have uncovered such criminality in the past, and are a vital component of the combined law enforcement agency approach to such issues. However, strictly speaking, the functions of the Department's gambling inspectors are restricted to ensuring compliance with the Gambling Act 2003. Simple amendments to that Act could rectify this situation, and empower Department inspectors to make a fuller contribution to the whole of government approach to dealing with organised crime.”

44. The Ministry of Justice is also working on a range of measures designed to ensure that New Zealand meets its international anti-money laundering and prevention of terrorist financing obligations. The Ministry is currently proposing that DIA will be one of three agencies tasked with supervising compliance with these laws, once they are in force. Casinos will be a particular focus of attention.