

Draft Statement of Proposal for Class 4 Gambling and TAB Venues Policy Consultation

Summary

Class 4 Gambling

Gaming machines or 'pokies' in pubs and clubs (ie outside a casino) are classified as 'Class 4' gambling. Every Territorial Authority (Council) in New Zealand must adopt a policy on Class 4 gaming venues, and that policy must be reviewed every three years.

Waitaki District Council's Class 4 Gaming Venue and Board Venue Policy is currently under review. During this review Council will consider options to amend the policy. We are seeking feedback from the community on proposed options.

This Statement of Proposal has been prepared in accordance with section 83 of the Local Government Act 2002. It includes information about the review process and on 5 proposed options which the Council will consider to amend the policy.

TAB Venues

Currently TAB venues are not permitted to have pokies in their venues. Why? We wanted to ensure that any gambling activity in the district provides the maximum possible benefit to the community. At present, there are no stand-alone TAB venues in Waitaki. Most of the Class 4 gambling machines in the district are operated by societies, who have policies that aim to return a high portion of the profits (known as net proceeds) back to the community through funding support to community organisations.

TAB venues put most of their net proceeds (80%) from gambling machines towards racing purposes (as defined in the Racing Act 2003), and up to 20% for sports purposes.

We are not proposing any changes to the current TAB Venues Policy.

Two separate policies

Policy settings for Class 4 gambling and TAB venues are driven by two different pieces of legislation with different purposes – the Gambling Act 2003 and the Racing Act 2003. Due to this, we changed our policy to not allow TAB venues to host class 4 gambling machines, we think it is now clearer, due to having two separate policies. Lots of other councils have also done this. What do you think?

Sale of alcohol

Our existing policy specifies that the primary activity of Class 4 gambling venues is for sporting activities or for the sale of liquor or for liquor and food. The original legislation governing Class 4 gambling - the Gaming and Lotteries Act 1977 - did not impose age restrictions on those who

could play *pokies*, so the requirement for a venue to hold a liquor licence was an attempt by councils to restrict the age to 18.

However, the Gambling Act 2003 (which replaced the Gaming and Lotteries Act 1977) expressly prohibits people under 18 from using gaming machines. This means the section in our policy specifying the primary activity is no longer required so we removed it. We think it's more important to focus on what the primary activity **may not be** – our policy already says that if the primary activity of a venue is associated with family or children's activities then it may not also be a Class 4 gambling venue. Again, let us know your thoughts.

PROPOSED OPTIONS TO AMEND THE CLASS 4 GAMBLING POLICY

Waitaki District Council is currently consulting on the following options in relation to the Class 4 gambling Policy.

Option 1:

- Status quo: Council chooses not to amend the policy

To keep the 'Status Quo' would mean that the policy would not change, and that the maximum limit of 140 gaming machines, and 22 venues and other restrictions (such as where in the district a venue may be established) would stay the same.

Option 2:

- Sinking lid policy (no new venue licenses will be given in Waitaki District).

Under this option no new Class 4 licenses will to be granted by Waitaki District Council. Venues' licences would not be allowed to be transferred to another location, and once a Class 4 venue is closed it cannot be reopened by another operator

Option 3:

- Sinking lid policy (no new machine licences will be given in the Waitaki District)

Under this option once the number of machines licenced to operate in a community decreases, council will not issue any other society a licence to replace those machines

PURPOSE

The purpose of options 2 and 3, is to prevent new gaming machine venues from opening, and to reduce the numbers of gaming venues and machines in the District over time.

Amendments to the Policy

Under these options, Council's Class 4 Gaming Policy would be amended through the addition of a section prohibiting any new venues from being established, or replacement machine licences being granted in the District.

How it would work

Under a sinking lid policy, venues cannot relocate, and no new licences would be issued. This means that the number of gaming venues may reduce over time, as new venue licences will not be given.

It should be noted, however, that Section 98 of the Gambling Act states that territorial consent is only required for a venue if it has not been held by a public society for more than 6 months. Therefore, under this option a venue operator could get consent to take over an existing venue that had been closed for less than 6 months.

This significantly undermines the effectiveness of a sinking lid policy.

What we want you to do

We'd like to hear from you. Please consider the proposed changes, along with how the current policies are working and tell us what you think. We need your feedback by **Tuesday 1 March 2022**.

You can make a submission online at www.waitaki.govt.nz, email consult@waitaki.govt.nz or post your submission to Class 4 Gambling and TAB Venues Policy, A Bardsley, Regulatory Services Manager, Waitaki District Council, Private Bag 50058, Oamaru 9444.

Need more information?

If you have any questions, please email consult@waitaki.govt.nz. Full draft policies attached.

Draft Class 4 Gambling Venues Policy 2021

After submissions are received and considered by Council, the policy will be amended to incorporate the appropriate options through a Council resolution.

1 Objectives of the policy

- 1.1 To ensure Council and community have influence over the location of new Class 4 gambling venues in the district, and
- 1.2 To balance the need to allow those who wish to participate in gaming machine gambling with the need to minimise harm caused by gambling, including problem gambling, and
- 1.3 To restrict the number of Class 4 venues and Class 4 gaming machines in the district.

2 Where Class 4 gambling venues may be established

(NOTE: The zones listed below need to be read in conjunction with the specific zones set out in the Waitaki District Plan.)

- 2.1 Class 4 gambling venues may be established within Business 1 and 1A Zones, subject to:
 - 2.1.1 Meeting application and fee requirements.
 - 2.1.2 The number of gaming machines proposed for the venue being able to be met within the overall district cap (maximum) on venue licences and district cap (maximum) on class 4 gaming machines determined by the Territorial Authority.
 - 2.1.3 Not being a venue at which the primary activity is associated with family or children's activities.
 - 2.1.4 Machines and signage within the venue promoting gambling opportunities not being visible outside the venue.
 - 2.1.5 Signage outside the venue promoting gambling opportunities complying with Council's regulations for signage (e.g., Waitaki District Plan requirements).
- 2.2 Class 4 gambling venues may be established in other business zones (Business 2, 3,3A, 4, 5, 6 and H Zones) subject to:

- 2.2.1 Meeting application and fee requirements.
- 2.2.2 The number of gaming machines proposed for the venue being able to be met within the overall district cap (maximum) on venue licences determined by the Territorial Authority.
- 2.2.3 Being no closer than 100 metres to any other Class 4 gambling venue.
- 2.2.4 Not being a venue at which the primary activity is associated with family or children's activities.
- 2.2.5 Machines and signage within the venue promoting gambling opportunities not being visible outside the venue
- 2.2.6 Signage outside the venue promoting gambling opportunities complying with Council's regulations for signage (e.g., Waitaki District Plan requirements, etc).

2.3 Class 4 gambling venues may be established in **recreation zones used for organised sporting purposes**, subject to:

- 2.3.1 Meeting application and fee requirements.
- 2.3.2 The number of gaming machines proposed for the venue being able to be met within the overall district cap (maximum) on venue licences determined by the Territorial Authority.
- 2.3.3 Being no closer than 100 metres to any other Class 4 gambling venue.
- 2.3.4 The venue being a recognised sports or other recreational non-profit club.
- 2.3.5 Not being a venue at which the primary activity is associated with family or children's activities.
- 2.3.6 Machines and signage within the venue promoting gambling opportunities not being visible outside the venue
- 2.3.7 Signage outside the venue promoting gambling opportunities complying with Council's regulations for signage (e.g., Waitaki District Plan requirements, etc).

Class 4 gambling venues may not be established in any Waitaki District Plan **Residential zone** or **recreation zone** (other than that above).

3 Numbers of gaming machines to be allowed

- 3.1 New venues shall be allowed a maximum number of nine (9) gaming machines.
- 3.2 Existing venues, with licences issued after 17 October 2001 and operating fewer than nine (9) gaming machines, may increase the number of machines operated at the venue to nine (9), subject to the district cap (maximum) for gaming machines.
- 3.3 Where a venue seeks to operate more than nine (9) machines pursuant to sections 95 and 96 of the Gambling Act 2003,
 - 3.2.1 the maximum number of machines is subject to the district cap (maximum) for gaming machines and
 - 3.2.2 shall be not greater than eighteen machines.

4 Overall cap on number of venues and gaming machines

- 4.1 The number of venues operated within the district must not exceed one venue per 1,000 population with reference to the usually resident population count for the district published by Statistics New Zealand every five years. Note: The 2018 census usually resident population count was 22,308. The number of venues must not exceed 22 until the next triennial review of this policy.
- 4.2 The number of machines operating in the district must not exceed the number operating on 18 September 2003 when the Gambling Act received the royal assent (being 140).

- 4.3 However, where a society surrenders or otherwise ceases to hold its Class 4 venue licence in relation to a particular venue, a licence may be granted to that society or to another society in relation to a different venue.

5 Incompatibility of Class 4 gambling premises

Class 4 gambling venues must not be located in premises that are incompatible with other predominant uses in a commercial or retail district.

The Class 4 Gambling Venues Policy does not allow New Zealand Racing Board (TAB) locations to act as a Class 4 gambling venue.

6 Mergers of non-commercial clubs

Council may allow for two or more non-commercial clubs to merge under Section 95 of the Gambling Act.

Two or more non-commercial clubs that merge must consolidate the number of gambling machines operated at the merged non-commercial club venue to the lesser of:

- a. 30 gaming machines; or
- b. The sum of the number of gaming machines previously operated by each non-commercial club individually.

7 Relocation of existing licensed premises

Council may permit existing Class 4 Venues to re-establish at a new site where, due to circumstances beyond the control of the owner or lessee of the premises in which the machines are located, the premises cannot continue to operate at the existing site. Examples of such circumstances include, but are not limited to, the following:

- Expiration of lease
- Acquisition of property under the Public Works Act
- Site redevelopment.

Where a venue relocates, the vacated site will not be granted another Class 4 licence. The new site must meet all of the other conditions set out in this policy.

8 Applications

Applications for territorial authority consent must be made on the approved form and must provide:

- 9.1 name and contact details for the application.
- 9.2 street address of premises proposed for the Class 4 licence.

- 9.3 the names of management staff.
- 9.4 evidence of police approval for owners and managers of the venue.
- 9.5 a copy of the applicant's proposed gambling harm minimisation policy and staff training programme.
- 9.6 a site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue.
- 9.7 evidence of the distance to the nearest residential zone, educational or religious establishment and other Class 4 gambling venues.
- 9.8 details of liquor licence(s) applying to the premises.
- 9.9 a copy of the completed Class 4 venue licence application form required by the Secretary of Internal Affairs, as provided in section 65 (2) of the Gambling Act 2003.

10 Application fees

These will be set by the territorial authority from time to time, and shall include consideration of:

- 10.1 the cost of processing the application, including any consultation and hearings involved.
- 10.2 the cost of triennially reviewing the Class 4 gambling venues policy.
- 10.3 the cost of inspecting Class 4 gambling venues on a regular basis to ensure compliance with consent or licence conditions.
- 10.4 a contribution towards the cost of triennial assessments of the economic and social impact of gambling in the district.

Appendix A

Fees and charges for Class 4 venue consent fees and processing applications

Waitaki District Council Class 4 Venue Consent Fee is 100% cost recovery (time and materials). An initial deposit is required by the applicant. This is set out in the fees and charges section of the most recent Annual Plan and is reviewed annually. For 2015/16, the fee is \$400.

Council has granted delegated authority to the Chief Executive Officer to issue Class 4 Venue Consents for applications that comply with Council's Class 4 Gambling Venues Policy (Res 03/251 – 9 December 2003).

Appendix B

Definitions

The Act means the Gambling Act 2003

Council means the Waitaki District Council

Gaming machine

- (a) means a device, whether totally or partly mechanically or electronically operated, that is adapted or designed and constructed for use in gambling; and
- (b) includes a device for gambling that is conducted partly by a machine and partly by other means; and
- (c) includes a device, or type of device, that is declared to be a gaming machine by regulations made under section 368 Gambling Act 2003: but
- (d) does not include—
 - (i) a device used only to draw a lottery; or
 - (ii) a random selection device used in a game of housie; or
 - (iii) a device used only to dispense tickets that is not capable of being used to decide the outcome of gambling; or
 - (iv) a communication device that is used both to dispense tickets in and draw a lottery that is a sales promotion scheme; and
- (e) does not include a device, or type of device, that is declared not to be a gaming machine by regulations made under section 368 of the Gambling Act 2003; and
- (f) does not include a device operated by the Lotteries Commission

Recreation Zones are places including land and buildings used for organised sporting purposes

Society means a society that is

- (a) incorporated under the Incorporated Societies Act 1908; or (b) incorporated as a board under the Charitable Trusts Act 1957; or
- (c) a company incorporated under the Companies Act 1993 that—
 - (i) does not have the capacity or power to make a profit; and

- (ii) is incorporated and conducted solely for authorised purposes; or
- (d) a working men's club registered under the Friendly Societies and Credit Unions Act 1982

Appendix C

Provisions of Gambling Act 2003 relating to Class 4 venues policy requirements

30. Meaning of class 4 gambling—

In this Act, "class 4 gambling" is—

- (a) gambling that is not gambling of another class and that satisfies the following criteria:
 - (i) the net proceeds from the gambling are applied to or distributed for authorised purposes;
 - (ii) no commission is paid to, or received by, a person for conducting the gambling; (iii) the gambling satisfies relevant game rules; and
- (b) gambling that utilises or involves a gaming machine; or
- (c) gambling categorised by the Secretary as class 4 gambling.

31. Requirements for class 4 gambling—

Class 4 gambling may be conducted only by a corporate society that holds—

- (a) a class 4 operator's licence for the gambling; and
- (b) a class 4 venue licence for the place where the gambling is conducted.

50. Application for class 4 operator's licence—

- (1) A corporate society may apply to the Secretary for a licence to conduct class 4 gambling.
- (2) An application must be on the relevant standard form and be accompanied by—
 - (a) a copy of the applicant's governing document; and
 - (b) details of the authorised purposes to or for which net proceeds from the class 4 gambling will be applied or distributed: and
 - (c) a statement by the applicant of how it proposes to minimise the risks of problem gambling (including the society's policy for identifying problem gamblers); and
 - (d) information about the financial viability of the proposed gambling operation and the means proposed to maximise the net proceeds from the class 4 gambling to be applied to or distributed for authorised purposes: and
 - (e) in the case of an applicant that operates mainly to distribute net proceeds from the class 4 gambling to the community, details of the methods, systems, and policies for consideration of applications and distribution of net proceeds: and

- (f) a profile of each key person, including details of their experience in class 4 gambling, history in gambling, character, and qualifications; and
 - (g) an application, and accompanying information, for a class 4 venue licence for each venue at which the applicant proposes to operate class 4 gambling; and
 - (h) any information requested by the Secretary to assist the Secretary to determine whether the applicant is suitable; and
 - (i) any information requested by the Secretary to show that the applicant will meet the requirements of this Act and the conditions of the proposed licence.
- (3) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.

65. Application for class 4 venue licence—

- (1) A corporate society may apply to the Secretary for a class 4 venue licence.
- (2) An application must be on the relevant standard form and be accompanied by—
 - (a) a description of the venue and its location; and
 - (b) a territorial authority consent if required under section 98; and
 - (c) a copy of a class 4 venue agreement if required under subsection (3); and
 - (d) a statement by the applicant of how it proposes to minimise the risks of problem gambling and underage gambling at the class 4 venue; and
 - (e) a profile of the venue manager and the venue operator, including details of their experience in class 4 gambling, history in gambling, character, and qualifications; and
 - (f) details of gambling equipment that the applicant intends to operate at the venue and evidence that it meets relevant minimum standards; and
 - (g) if the application relates to a venue that is licensed to another corporate society, notice from the other corporate society that it is surrendering its venue licence for the venue; and
 - (h) if relevant, evidence that on issue of the licence the applicant will own any gambling equipment (except for electronic monitoring systems) that it proposes to operate; and
 - (i) evidence that any gambling equipment that the applicant proposes to operate under the licence is not and will not be financed by the manufacturer, distributor, or vendor of the equipment; and
 - (j) evidence that the class 4 venue is not to be used mainly for operating gaming machines; and
 - (k) for a class 4 venue that is not established before the commencement of this section, evidence that the class 4 venue is not to be part of a place at which another class 4 venue or a casino is located; and
 - (l) evidence that the venue is suitable in all other respects to be a class 4 venue.
- (3) The application must also be accompanied by a class 4 venue agreement unless the Secretary is satisfied that the applicant is a club that intends to operate gambling equipment at a non-commercial class 4 venue that—
 - (a) it owns or leases; and
 - (b) is mainly for the use of club members.

- (4) Despite subsection (3), an application by the New Zealand Racing Board or a racing club is not required to be accompanied by a venue agreement.
- (5) The Secretary may return an incomplete application, and the accompanying documents and any fee, to an applicant.
- (6) The Secretary may request from the applicant any further information that the Secretary considers necessary to consider the application properly.

98. When territorial authority consent is required—

A territorial authority consent is required in the following circumstances:

- (a) if a society proposes to increase the number of machines that may be operated at a class 4 venue (whether by way of an application for, or amendment to, a class 4 venue licence, and whether or not in association with an application for ministerial discretion under section 95 or section 96):
- (b) unless paragraph (c) or paragraph (d) applies, the first time there is an application for a class 4 venue licence for a venue for which a class 4 venue licence was not held on 17 October 2001:
- (c) if a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any society for the venue within the last 6 months:
- (d) on the commencement of this section, in accordance with section 93 for a class 4 venue—
 - (i) to which section 92 does not apply; and
 - (ii) for which there is a class 4 venue licence granted after 17 October 2001 and before the commencement of this section.

99. Application for territorial authority consent—

- (1) An application for a territorial authority consent must be made to the territorial authority for the district in which the class 4 venue is, or will be, located.
- (2) The application must be accompanied by the information required by the territorial authority to enable it to consider the application properly.

100. Considering and determining application for territorial authority consent—

- (1) A territorial authority must—
 - (a) consider an application for a territorial authority consent in accordance with its gambling venue policy; and
 - (b) then either—
 - (i) grant a consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue; or
 - (ii) not grant a consent.
- (2) However, if a corporate society applies for a territorial authority consent for an amendment to a class 4 venue licence to allow an increase in the number of gaming machines that may be operated at a venue, a territorial authority—

- (a) must consider and determine the application in accordance with subsection (1); but
 - (b) may not include a condition specifying a maximum number of machines that may be operated at the venue that is fewer than the number of machines that may be operated currently at the venue.
- (3) The territorial authority must notify the applicant of its determination within 30 working days after the later of—
- (a) the date of receipt of the application; or
 - (b) the date that it adopts a gambling venue policy.
- (4) A territorial authority must not consider an application for a territorial authority consent before it has a gambling venue policy.

101. Territorial authority must adopt class 4 venue policy—

- (1) A territorial authority must, within 6 months after the commencement of this section, adopt a policy on class 4 venues.
- (2) In adopting a policy, the territorial authority must have regard to the social impact of gambling within the territorial authority district.
- (3) The policy—
 - (a) must specify whether or not class 4 venues may be established in the territorial authority district and, if so, where they may be located; and
 - (b) may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue.
- (4) In determining its policy on whether class 4 venues may be established in the territorial authority district, where any venue may be located, and any restrictions on the maximum number of gaming machines that may be operated at venues, the territorial authority may have regard to any relevant matters, including:
 - (a) the characteristics of the district and parts of the district;
 - (b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
 - (c) the number of gaming machines that should be permitted to operate at any venue or class of venue;
 - (d) the cumulative effects of additional opportunities for gambling in the district;
 - (e) how close any venue should be permitted to be to any other venue;
 - (f) what the primary activity at any venue should be.

102. Adoption and review of class 4 venue policy—

- (1) A policy on class 4 venues under section 101 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002 and, for the purpose of subsection (1)(e) of that section, the territorial authority must give notice of the proposed policy, in a manner that the territorial authority considers appropriate to—
 - (a) each society that holds a class 4 venue licence for a venue in the territorial authority district; and
 - (b) organisations representing Māori in the territorial authority district.

- (2) A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.
- (3) Subsection (1) (b) does not affect the ability of a territorial authority to take similar action in respect of any other population group.
- (4) A territorial authority must, as soon as practicable after adopting, amending, or replacing a policy, provide a copy of the policy to the Secretary.
- (5) A territorial authority must complete a review of a policy within 3 years after the policy is adopted and then within 3 years after that review and each subsequent review is completed.
- (6) A policy does not cease to have effect because it is due for review or being reviewed.

103. Provision of information relating to class 4 venues in territorial authority district—

On request from a territorial authority, the Secretary must provide—

- (a) the name and address of each society that holds a class 4 venue licence for a venue in the territorial authority district: and
- (b) the name and address of each class 4 venue in the territorial authority district and the number of gaming machines permitted to operate there.

Draft TAB Venues Policy 2021

It is not proposed to change the current policy, however after submissions are received and considered by Council, the policy will be amended to incorporate the appropriate options through a Council resolution.

1. Policy Objectives

1.1 This policy covers standalone TAB Venues, which are owned or leased by the New Zealand Racing Board. Council consent is not required under the legislation to establish a TAB facility in a bar, hotel, or club.

1.2 The objectives of this policy are to support the purpose and intent of the Racing Act 2003. The purpose of the Racing Act is:

- (a) To provide effective governance arrangements for the racing industry.
- (b) To facilitate betting on galloping, harness, and greyhound races, and other sporting events; and
- (c) To promote the long-term viability of New Zealand racing.

2. Where TAB Venues may be established

2.1 TAB Venues may be established within Waitaki District Plan Business 1 and 1A Zones, subject to:

- 2.1.1 Meeting application and fee requirements.
- 2.1.2 Not being a venue at which the primary activity is associated with family or children's activities; and
- 2.1.3 Signage outside the venue promoting gambling opportunities complying with Council's regulations for signage (e.g., District Plan requirements).

2.2 TAB Venues may be established in other business zones (Waitaki District Plan Business 2, 3, 3A, 4, 5, 6 and H Zones) subject to:

- 2.2.1 Meeting application and fee requirements.
- 2.2.2 Being no closer than 100 metres to any other TAB Venue.
- 2.2.3 Not being a venue at which the primary activity is associated with family or children's activities; and

2.2.4 Signage outside the venue promoting gambling opportunities complying with Council's regulations for signage (e.g., Waitaki District Plan requirements, etc).

TAB Venues may not be established in any Waitaki District Plan Residential, Township or Rural Residential Zone.

3. Applications

Applications for territorial authority consent must be made on the approved form and must provide:

- 3.1 name and contact details for the application.
- 3.2 street address of premises proposed for the TAB Venue.
- 3.3 the names of management staff.
- 3.4 a copy of the applicant's proposed gambling harm minimisation policy and staff training programme; and
- 3.5 evidence of the distance to the nearest residential zone, educational or religious establishment and other TAB venues.

4. Application fees

These will be set by the territorial authority from time to time, and shall include consideration for:

- 4.1 the cost of processing the application, including any consultation and hearings involved.
- 4.2 the cost of triennially reviewing the TAB Venue policy.
- 4.3 the cost of inspecting TAB venues on a regular basis to ensure compliance with consent or licence conditions; and
- 4.4 a contribution towards the cost of triennial assessments of the economic and social impact of gambling in the district.