

Class 4 Gambling Venues Policy 2022

1 Objectives of the policy

- 1.1 To ensure Council and community have influence over the location of existing Class 4 gambling venues in the district;
- 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 via a Sinking Lid policy.

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 (in accordance with clause 6) 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 are subject to Clause 6.2 of this policy.
 - 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, and
 - 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 accordance with clause 6) 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 are subject to Clause 6.2 of this policy;
 - 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, and
- 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 are subject to Clause 6.2 of this policy;
 - 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, and
 - 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 and Location of Class 4 Gambling Venues From the commencement of this policy:

- 3.1 Council will not grant consent for the establishment of any new Class 4 Gambling venues, or gaming machines as of the adoption of this policy.

4 Incompatibility of Class 4 gambling premises

- 4.1 Class 4 gambling venues must not be located in premises that are incompatible with other predominant uses in a commercial or retail district.
- 4.2 The Class 4 Gambling Venues Policy does not allow New Zealand Racing Board (TAB) locations to act as Class 4 gambling venues.

5 Mergers of non-commercial clubs

- 5.1 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 at the time of the merger

6 Relocation of existing Class 4 Venues permitted under specific circumstance

6.1 Council at its sole discretion, under circumstances it deems exceptional, may permit existing Class 4 venues to be re-establish at a new site where, due to circumstances beyond the control of the operator or lessee of the premises, the premises cannot continue to operate at the existing site. Example of such circumstances include but are not limited to the following:

- Acquisition of property under the Public Works Act.
- Substantive site development by a new owner.
- Natural disaster

6.2 Any permission to establish a new Class 4 venue under clause 6.1 will be subject to the following conditions:

- i. The intended holder of the Class 4 venue licence and the owner or lessee of the premises in which the machines are located at the new site must not exceed the number of machines in operation at the old site at the time of relocation.
- ii. In accordance with Section 97A of the Gambling Act 2003, when a relocation is sought under this relocation provision, the new venue may only operate up to the same number of machines that were in operation at the old venue immediately before the old venue licence was cancelled as a result of the relocation.
- iii. In accordance with Section 97A(2)(c) of the Gambling Act 2003, when the new venue is established following the consent being granted under this relocation provision, the old venue is treated as if no Class 4 venue licence was ever held for that venue.

(Note: Where a venue relocates, the Class 4 licence for the old venue will be cancelled and the old venue will be treated as if no Class 4 venue licence had ever been held for that venue).

7 Applications

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

- 7.1.1 name and contact details for the application;
- 7.1.2 street address of premises proposed for the Class 4 licence;
- 7.1.3 the names of management staff;
- 7.1.4 evidence of police approval for owners and managers of the venue;
- 7.1.5 a copy of the applicant's proposed gambling harm minimisation policy and staff training programme;
- 7.1.6 a site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue;
- 7.1.7 evidence of the distance to the nearest residential zone, educational or religious establishment and other Class 4 gambling venues;
- 7.1.8 details of liquor licence(s) applying to the premises;
- 7.1.9 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.

8 Application fees

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

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

9 Commencement of Policy

The policy will take effect from **10 May 2022**

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.

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 operate, that –
 - (i) is adapted or designed and constructed for use in gambling; and
 - (ii) is played or confers a right to participate, whether totally or partly, by the insertion of money into it or by the direct or indirect payment of money by any other means; 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 jackpot device that links a series of gaming machines and that can only be played through those gaming machines; or
 - (v) 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

Sinking Lid means as a Class 4 Venue ceases operation or is closed and does not resume gambling activities within six months, Council will not grant consent for the establishment of any new venue, except relocation under specific circumstances in accordance with Clause 7.

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 gambling that satisfies the following criteria:

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

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

With the exception of Clause 6 (relocation of existing venue), there shall be no new Class 4 venues as of the adoption of this policy.

- (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 risk of problem gambling (including the corporate 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
 - (da) in the case of an applicant that proposes to apply some or all of its net proceeds from the class 4 gambling to an authorised purpose, information to assist the Secretary to determine whether the applicant meets the requirements of [section 52A\(1\)](#); and
 - (e) in the case of an applicant that mainly or wholly distributes 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 conducting class 4 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

With the exception of Clause 6 (relocation of existing venue), there shall be no new Class 4 venues as of the adoption of this policy.

- (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 risk 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 conducting class 4 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) if the application relates to a venue for which a class 4 venue licence was not held at the time of 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 required

A territorial authority consent is required in the following circumstances:

- (a) if a corporate society proposes to increase the number of gaming 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 96);
- (b) if a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any corporate society for the venue within the last 6 months;
- (c) if a corporate society proposes, in accordance with a relocation policy of the territorial authority, to change the venue to which a class 4 venue licence currently applies.

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.
- (3) An application for consent in accordance with a relocation policy may be made only with the agreement of the venue operator of the existing venue.

100. Considering and determining application for territorial authority consent

With the exception of Clause 6 (relocation of existing venue), there shall be no new Class 4 venues as of the adoption of this 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; and
 - (c) may include a relocation policy.
- (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.
- (5) A relocation policy is a policy setting out if and when the territorial authority will grant consent in respect of a venue within its district where the venue is intended to replace an existing venue (within the district) to which a class 4 venue licence applies (in which case section 97A applies).

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 corporate 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.
- (5A) The first time that a territorial authority commences a review of a policy after the [Gambling \(Gambling Harm Reduction\) Amendment Act 2013](#) comes into force, the territorial authority must (and may at any other time) consider whether to include a relocation policy (as defined in [section 101\(5\)](#)) in its class 4 venue policy.
- (5B) Whenever a territorial authority is considering whether to include a relocation policy in its class 4 venue policy, it must consider the social impact of gambling in high-deprivation communities within its district.
- (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 corporate 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.