

Class 4 Gambling Venues Policy 2018

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,
 - 3.3.1 the maximum number of machines is subject to the district cap (maximum) for gaming machines and
 - 3.3.2 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 2013 census usually resident population count was 20,829. The number of venues must not exceed 20 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 Class 4 gambling venues.

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 Class 4 Venue

On application Council may permit existing Class 4 venues to re-establish at a new site. An application, and the proposed venue, must comply with all other conditions and provisions set out in this Policy, as if it were a new venue and an application for a new venue.

The maximum number of gaming machines permitted to operate at the new venue is the same as the maximum number of gaming machines permitted to operate at the old venue immediately before the licence relating to the old venue is cancelled.

(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).

8 Applications

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

- 8.1 name and contact details for the application;
- 8.2 street address of premises proposed for the Class 4 licence;
- 8.3 the names of management staff;
- 8.4 evidence of police approval for owners and managers of the venue;
- 8.5 a copy of the applicant's proposed gambling harm minimisation policy and staff training programme;
- 8.6 a site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue;
- 8.7 evidence of the distance to the nearest residential zone, educational or religious establishment and other Class 4 gambling venues;
- 8.8 details of liquor licence(s) applying to the premises;
- 8.9 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.

9 Application fees

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

- 9.1 the cost of processing the application, including any consultation and hearings involved;
- 9.2 the cost of triennially reviewing the Class 4 gambling venues policy;
- 9.3 the cost of inspecting Class 4 gambling venues on a regular basis to ensure compliance with consent or licence conditions;
- 9.4 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.

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
 - (iiia) a jackpot device that links a series of gaming machines and that can only be played through those gaming machines; 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 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

- (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

- (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

- (1) A territorial authority must—
 - (a) consider and determine an application for a territorial authority consent in accordance with its class 4 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 (but with no other condition); 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 class 4 venue policy.
- (4) A territorial authority must not consider an application for a territorial authority consent before it has a class 4 venue policy.
- (5) A territorial authority consent for a class 4 venue expires 6 months after its date of issue if no application for a class 4 venue licence in relation to the venue has been submitted.

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.