

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Council will be held on:

Date: Thursday 16 November 2017
Time: 1.00pm
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Council OPEN AGENDA

Membership

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr G Mallett
	Cr A O'Leary
	Cr R Pascoe
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman
	Vacancy

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Lee-Ann Jordan
Governance Manager

10 November 2017

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Purpose

The Council is responsible for:

1. Providing leadership to, and advocacy on behalf of, the people of Hamilton.
2. Ensuring that all functions and powers required of a local authority under legislation, and all decisions required by legislation to be made by local authority resolution, are carried out effectively and efficiently, either by the Council or through delegation.

Terms of Reference

1. To exercise those powers and responsibilities which cannot legally be delegated by Council:
 - a) The power to make a rate.
 - b) The power to make a bylaw.
 - c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
 - d) The power to adopt a Long Term Plan or Annual Plan, or Annual Report.
 - e) The power to appoint a Chief Executive.
 - f) The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan, or developed for the purpose of the Council's governance statement, including the 30-Year Infrastructure Strategy.
 - g) The power to adopt a remuneration and employment policy.
 - h) The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
 - i) The power to approve or amend the Council's Standing Orders.
 - j) The power to approve or amend the Code of Conduct for Elected Members.
 - k) The power to appoint and discharge members of committees.
 - l) The power to establish a joint committee with another local authority or other public body.
 - m) The power to make the final decision on a recommendation from the Parliamentary Ombudsman, where it is proposed that Council not accept the recommendation.
 - n) The power to amend or replace the delegations in Council's *Delegations to Positions Policy*.
2. To exercise the following powers and responsibilities of Council, which the Council chooses to retain:
 - a) Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer and reviewing representation arrangements.
 - b) Approval of any changes to Council's vision, and oversight of that vision by providing direction on strategic priorities and receiving regular reports on its overall achievement.
 - c) Approval of any changes to city boundaries under the Resource Management Act.
 - d) Adoption of governance level strategies, plans and policies which advance Council's vision and strategic goals.
 - e) Approval of the Triennial Agreement.

- f) Approval of the local governance statement required under the Local Government Act 2002.
- g) Approval of a proposal to the Remuneration Authority for the remuneration of Elected Members.
- h) Approval of any changes to the nature and delegations of the Committees.

Oversight of Policies:

- *Corporate Hospitality and Entertainment Policy*
- *Delegations to Positions Policy*
- *Elected Members Support Policy*
- *Significance and Engagement Policy*

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1 Apologies

2 Confirmation of Agenda

The Council to confirm the agenda.

3 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4 Public Forum

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes has been set aside for a public forum. Each speaker during the public forum section of this meeting may speak for three minutes or longer at the discretion of the Mayor.

Please note that the public forum is to be confined to those items falling within the terms of the reference of this meeting.

Speakers will be put on a Public Forum speaking list on a first come first served basis in the Council Chamber prior to the start of the Meeting. A member of the Governance Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Governance by telephoning 07 838 6439.

Council Report

Committee: Council **Date:** 16 November 2017
Author: Amy Viggers **Authoriser:** Lee-Ann Jordan
Position: Committee Advisor **Position:** Governance Manager
Report Name: Confirmation of Council Minutes - Open - 18 October 2017

Report Status	<i>Open</i>
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Staff Recommendation

That the Council confirm the Open Minutes of the Council Meeting held on 18 October 2017 as a true and correct record.

Attachments

Attachment 1 - Council Unconfirmed - Open Minutes - 18 October 2017.

Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Wednesday 18 October 2017 at 1.24pm.

PRESENT

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr G Mallett
	Cr A O'Leary
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman (part)

In Attendance:

Lance Vervoort – General Manager Community
Sean Hickey – General Manager Strategy and Communications
David Bryant – General Manager Corporate
Kelvyn Eglinton – General Manager City Growth
Luke O'Dwyer – Economic Growth and Planning Unit Manager
Tracey Musty – Financial Controller
Eeva-Liisa Wright – Business Manager City Infrastructure
Riki Manarangi – Corporate Policy Specialist
Racheal McMillan – Special Projects Programme Manager
Justine Allen – Civic Events Manager
Stafford Hodgson – Economic Growth and Planning Analyst
Debbie Lascelles – Community Services Manager
Chelsey Stewart – Project Manager
Paul Bowman – Team Leader Economic Growth and Urban Policy
Morva Kaye – Financial Accountant
Jeff Neems – Communications Advisor
Mark Servian – Communications Advisor
Nigel Ward – Communications Team Leader
Michelle Howie – Project Manager
Brendan Stringer – Legal Services and Governance Officer
Muna Wharawhara – Amorangi Maaori

Dale Ofsofske – Electoral Officer
Paul Connell – Chair of the Audit and Risk Committee
Tame Pokaia – Council Komatua
Lee-Ann Jordan – Governance Manager

Becca Brooke – Governance Team Leader
Amy Viggers – Committee Advisor

Tame Pokaia carried out a blessing and Venerable Paul Weeding read a bible reading ahead of the official meeting starting.

The General Manager Community asked that a minute silence be observed to acknowledge the passing of Cr Philip Yeung. Following the minutes silence, the General Manager Community advised that this was the first Council Meeting to take place after the passing of Cr Philip Yeung. He acknowledged Philip's wife Alice and daughter Jeannie who were in attendance and invited people to share acknowledgements and memories of Cr Philip Yeung.

- 1. Apologies**
Resolved: (Crs Casson/Gallagher)

That the apology from Cr O'Leary is accepted.

Leave of Absence previously approved for Cr Pascoe to 24 October 2017.

- 2. Confirmation of Agenda**

Resolved: (Crs Mallett/Bunting)

That that agenda is confirmed noting the following:

- **Item 11 - Special Housing Area Application - Jebson Place Residential Development**
Attachment 3 (*Full Application for the Jebson Place Special Housing Area proposal*) has been circulated under separate cover.
- **Item 13 - Recommendation from the Audit and Risk Committee – Adoption of the Annual Report 2016/17** to be taken after item 6 (Chairs Report) to accommodate external presenter (Paul Connell). Attachment 1 (2016/17 Annual Report) and 2 (2016/17 Annual Report Summary) were circulated under separate cover prior to the meeting.

- 3. Declarations of Interest**

Cr Mallett noted that in relation to Item 10 (Special Housing Area – Expressions of Interest), his father had owned Fosters Construction 20 years ago but he had no pecuniary interest in relation to this item.

- 4. Public Forum**

Mr Geoff Kreegher (*resident*) spoke to Item 7 (Review of Maaori Representation). Mr Kreegher outlined the reasons he was not supportive of Maaori representation or Maaori Wards.

Tame Pokaia and representatives of Council's Maaori collective stakeholder groups spoke to Item 7 (Review of Maaori Representation). They noted that they were supportive of option d) outlined in the staff report.

5. **Confirmation of Council Minutes - Open - 21 September 2017**

Resolved: (Cr Casson/Cr Mallett)

That the Council confirms the Open Minutes of the Council Meeting held on 21 September 2017 as a true and correct record.

6. **Chair's Report 18 October 2017**

The Chair took the report as read.

Resolved: (Mayor King/Cr Henry)

That Council:

- a) defers the class 4 gambling policy report to the 16 November 2017 Council meeting; and
- b) defers the Hillsborough Terrace Road Stopping report to the 16 November 2017 Council meeting.

Item 13 – (Recommendation from the Audit and Risk Committee – Adoption of the Annual Report) was taken next to accommodate an external presenter.

7. **Recommendation from the Audit and Risk Committee - Adoption of the Annual Report 2016/17**

The Chair of the Audit and Risk Committee introduced the report. It was noted that there were minor changes to the following parts of the annual report: note 19 was updated to include the additional \$5 million spent on two capital assets related to the water treatment system and the roads and traffic network; and note 30 was updated to include the sale of Waikato Innovation Park Limited shares and the dissolution of Hamilton Properties Limited.

Resolved: (Mayor King/Cr Mallett)

That the Council adopts the 2016/17 Annual Report, noting the following changes:

- Page 16 – 'no data' be changed to 'zero'
- Page 108 note 19 – include additional \$5 million spend on two capital assets related to the water treatment system and roads and traffic network
- Page 124 note 30 – updated to include the sale of Waikato Innovation Park Limited shares and the dissolution of Hamilton Properties Limited.

8. **Review of Maaori Representation**

The Governance Manager introduced the report, noting a robust process had been followed by the project group and the timeline. She also noted that staff had provided all options available for consideration but not made a recommendation as this was a Governance matter.

Resolved: (Mayor King/Cr Southgate)

That the Council:

- a) resolves to further explore Maaori governance representation options ('alternative representation models') other than Maaori wards and requests the Chief Executive to further investigate such alternative representation models including:

- (i) consulting with key stakeholders (including Waikato-Tainui, Te Runanga o Kirikiriroa and Te Haa o te Whenua o Kirikiriroa); and
 - (ii) assessing implications for the Council, including financial, legal, policy and process. *(option 3 in the options table on page 25-27 of this report).*
- b) notes that the additional work requested will align with the mid-term Governance Structure review, and that a report will be presented to the Council with recommended options before 30 May 2018; and
- c) thanks Linda Te Aho for her support to the project team on the representation review.

Cr Mallett Dissenting.

Cr Tooman joined the meeting (2.00pm) during the debate of the above Item. He was present when the matter was voted on.

9. Waterworld Renewals Project - Delegation to Award Contract

The Community Services Manager took the report as read.

Resolved: (Cr Bunting/Cr Casson)

That the Council:

- a) receives the report; and
- b) delegates authority to the Chief Executive to finalise award of Contract 15468 for the Waterworld Renewals Project with Fletcher Construction Company Limited, subject to the total Approved Contract Sum not exceeding \$10,050,402.

10. 2018-28 10-Year Plan - Community Outcomes

The General Manager Strategy and Communications took the report as read.

Motion: (Crs Bunting/Taylor)

That the Council approves the following as the Hamilton City Council's Community Outcomes:

- a) *A great river city –*
Our city embraces its natural environment and has green spaces, features and community facilities that make it a great place to live, work, play and visit.
- b) *A city that embraces growth –*
Our city has infrastructure that meets our current demands, supports growth and helps build a strong economy.
- c) *A council that is best in business –*
Our council is customer focussed, financially sustainable and has the best people delivering the best outcomes for the city.

Amendment: (Crs Southgate/Henry)

That the Council approve the following as the Hamilton City Council's Community Outcomes:

Hamilton will have:

- 1) Robust city finances;
- 2) A strong, growing economy;
- 3) High quality infrastructure and facilities ;
- 4) A thriving commercial central city;
- 5) Positive connections with the Waikato River;
- 6) World class public gardens;
- 7) Exciting arts and culture;
- 8) Fantastic parks and green spaces; and
- 9) Recreation and sporting activities for all to enjoy

The Amendment was put.

Those for the Amendment: Councillors Casson and Henry.

Those against the Amendment: Mayor King, Councillors Gallagher, Mallett, Tooman, Macpherson, Bunting, Southgate and Taylor.

The Amendment was declared lost.

The Motion was then put.

Those for the Motion: Mayor King, Councillors Casson, Henry, Gallagher, Mallett, Tooman, Macpherson, Bunting, and Taylor.

Those against the Motion: Councillor Southgate.

The Motion was declared carried.

Resolved: (Crs Bunting/Taylor)

That the Council approves the following as the Hamilton City Council's Community Outcomes:

- a) *A great river city* –
Our city embraces its natural environment and has green spaces, features and community facilities that make it a great place to live, work, play and visit.
- b) *A city that embraces growth* –
Our city has infrastructure that meets our current demands, supports growth and helps build a strong economy.
- c) *A council that is best in business* –
Our council is customer focussed, financially sustainable and has the best people delivering the best outcomes for the city.

11. **Special Housing Area (SHA) - Expressions of Interest**

The Economic Growth and Planning Unit Manager introduced the report and responded to questions from Elected Members concerning the process for consultation/notification of SHA applications and provided details around the SHA applications received so far, as outlined in the staff report.

Staff were thanked and acknowledged by Elected Members for the work that had been carried out in relation to SHA's.

Resolved: (Mayor King/Cr Casson)

That the Council:

- a) receives the report; and
- b) approves all EOI's received and scheduled in Appendix 1 for further evaluation in accordance with the criteria set out in the SHA Policy and Housing Accords and Special Housing Areas Act 2013 (HASHAA) and seek public feedback for three weeks on all sites.

12. **Special Housing Area Application - Jebson Place Residential Development**

The Economic Growth and Planning Unit Manager introduced the report noting the application met all of the criteria to be a special housing area. He responded to questions from Elected Members concerning public consultation not being required due to the sites location and recently granted consent.

Resolved: (Mayor King/Cr Taylor)

That the Council:

- a) receives the report; and
- b) recommends to the Minister for Building and Construction pursuant to section 17 of the Housing Accords and Special Housing Areas Act 2013, that a Special Housing Area be established over Jebson Place or street address of 5A Cassidy Street listed by the land parcels identified in Schedule 1 as shown on the proposed SHA map set out in. **Attachment 1. Subject to the receipt of a report that demonstrates that all infrastructure necessary to service the proposed SHA is available or will be made available by the developer at no cost to the Council in advance of all identified infrastructure demand arising then;**
- c) confirms for the purpose of section 16 of the Housing Accords and Special Housing Areas Act that it is satisfied that:
 - (i) there is evidence of demand to create qualifying developments in the SHA
 - (ii) there is demand for residential housing in the SHA
- d) recommends to the Minister for Building and Construction pursuant to section 17 of the Housing Accord and Special Housing Areas Act 2013, that the Special Housing Area has prescribed criteria as follows:
 - (i) the maximum calculated height of dwellings shall be 10m
 - (ii) the SHA shall not contain fewer than 80 dwellings

- e) delegates authority to the Chief Executive to receive and accept the assessment identified in b) above prior to recommending to the Minister for Building and Construction and enter into negotiations with the proponent to secure a development agreement to secure provisions on necessary infrastructure, if required.

13. Waikato Regional Council Review of Regional Emergency Services Fund

The report was taken as read.

Resolved: (Cr Southgate/Cr Tooman)

That the Council:

- a) supports the retention of the Regional Emergency Services Fund and its current non-contestable funding model, the list of current recipients, and the current level of funding adjusted for inflation; and
- b) requests the Chief Executive inform the Waikato Regional Council of Council's support as per a) above.

14. Policy Review - Elected Member Support Policy

The Governance Manager introduced the report, noting that the draft policy reflected any feedback that had been provided by Elected Members. She responded to questions from Elected Members on the proposed policy changes.

The Governance Manager undertook to provide further clarification to Elected Members concerning mileage claims following the meeting.

Resolved: (Crs Taylor/Bunting)

That the Council:

- a) approves the amended Elected Member Support Policy (Attachment 2 to the staff report).
- b) notes that paragraphs 15 and 16 in the amended Policy (*Communications Expenses and Allowances*) took effect from 1 July 2017 as required by the Remuneration Authority's 2017/18 determination.

15. Resolution to Exclude the Public

Resolved: (Cr Casson/Cr Mallett)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of Council Minutes - Public Excluded - 21 September 2017) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
<p>This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:</p>		
Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)

The Meeting went into a Public Excluded session at 3.20pm.

The Meeting was declared closed at 3.21pm.

Council Report

Item 6

Committee: Council **Date:** 16 November 2017
Author: Amy Viggers **Authoriser:** Lee-Ann Jordan
Position: Committee Advisor **Position:** Governance Manager
Report Name: Confirmation of Elected Member Briefing Notes - Open - 18 October 2017

Report Status	<i>Open</i>
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Staff Recommendation

That the Council confirm the open notes of the Elected Member Briefing held on 18 October 2017 as a true and correct record.

Attachments

Attachment 1 - Elected Member Briefing Notes - 18 October 2017 - Open Session.

Elected Member Briefing Notes –18 October 2017 - Open

Time and date:	18 October 2017 at 9.30am
Venue:	Committee Room 1, Hamilton City Council
In Attendance:	Mayor King, Deputy Mayor Gallagher, Crs Tooman, Southgate, Mallett, Henry, Casson, Macpherson, Bunting
Apology for Full Session:	Crs O'Leary, Taylor
Leave of Absence:	Cr Pascoe

Discussion

The briefing session covered the following topic in the open session:

1. Infill and Intensification (Presentation was provided)

The Economic Growth and Planning Unit Manager gave a presentation on Infill and Intensification, as part of a series of briefings provided to Elected Members around growth cells. He outlined the difference between infill and intensification, and discussed the background and history of infill, of which intensification is a subset.

Staff undertook to provide a breakdown on the types of housing developments and dwelling choices available, to be circulated to Elected Members by 30 November 2017.

Elected Members asked questions in relation to the following:

- Number of smaller dwellings in regards to infill
- Connection between residential and industrial land areas usage and availability
- Differences in the types and density of housing since the beginning of records
- Whether the policy around infill was working, particularly around the provision for green spaces and urban design
- Good design outcomes and what was meant by this – aesthetic or infrastructure
- Impact on infrastructure – capacity and issues such as traffic impact assessments and parking
- Allocation of infrastructure upgrade needs ensuring equitability
- Standards on noise, set back and insulation on new builds, particularly in the CBD
- Staff expertise with urban design

Council Report

Item 7

Committee: Council

Date: 16 November 2017

Author: Amy Viggers

Authoriser: Lee-Ann Jordan

Position: Committee Advisor

Position: Governance Manager

Report Name: Chair's Report

Report Status	<i>Open</i>
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Attachments

Attachment 1 - Chair's Report - 16 November 2017.



Chair's Report

Clarke Lounge

Recent conversations have meant there is a need to provide clarity about the Clarke Lounge.

Recommendation:

1. That the Council:
 - a) approves access and use of the Clarke lounge and accompanying seats, remaining available for Hamilton City Council without incurring additional cost, for all events being hosted at FMG Stadium Waikato; and
 - b) requires written approval from both the Chief Executive and the Mayor if there is a need for an exception to this.

Caro St right turn

I have noted many members of the public, staff and elected members have issue with a no right turn from Caro St into Anglesea Street.

Recommendation:

2. That the Council requests staff consider the removal of the right turn restrictions out of Caro Street onto Anglesea Street as part of the first suite of proposed changes to the Hamilton City Traffic Bylaw 2015 registers in 2018.

Hillsborough Terrace Road Stopping

The report was deferred from the Council meeting of 18 October 2017 and was to come back to this meeting. Currently there is no further information to hand on this matter. Rather than deferring the report to the next meeting of Council I recommend the report is sent back to staff to bring forward when the necessary information is available for a decision to be made.

Recommendation:

3. That the Council refers Hillsborough Terrace road stopping report back to staff, until such time the information required is available.

Opening CBD toilets (Embassy Park)

Feedback has been received from City Safe staff about making sure we have toilets open Thursday to Sunday nights. Staff have identified public health issues of not having toilets open when there is significant amount of people in the CBD. While the cost of opening and closing the toilets is minimal, there is a cost to maintaining them (cleaning) especially if there is a high amount of use.

The costs for the Embassy Park site toilets to be open from 6am Thursday to 4am Sunday are as follows: \$14.10 per cleaning x 2 additional cleanings x 3 nights = \$ 84.60 per week or an annual rounded cost of \$4400.00.

Recommendation:

4. That the Council approves additional funding to accommodate extra cleaning to open Embassy Park toilets Thursday to Sunday during night time hours.

Elected Members Support Policy

The Council approved the updated Elected Members' Support Policy ('the Policy') at its meeting on 18 October 2017. A copy of the Policy can be accessed [here](#) (Item 14, Attachment 2).

The intention of the Policy was to remove the previous prohibition on claiming for travel within the city boundary to enable elected member to claim a vehicle mileage allowance that aligns with the Remuneration Authority determination. The Policy allows members to make a claim for travel where they exceed 80 kilometres in a given week. It was not intended for the 80 kilometre threshold to apply to a claim for travel undertaken on Council business outside of the city boundary (e.g. attending an LGNZ Zone 2 meeting).

To clarify this intention, staff propose the following amendment to the policy (changes shown in red):

- "23. ~~Subject to paragraph 24,~~ A mileage allowance is payable for any distance travelled in excess of 80 kilometres per week **where the travel claimed is:**
- i. within the city boundary; or**
 - ii. to and within the city boundary where the member resides outside the city boundary and the claim includes travel to and from that member's place of residence.**
 - iii. For clarity, subject to subparagraph (ii) above, the 80 kilometre threshold does not apply when claiming for travel outside of the city boundary, though such travel cannot count towards the 80 kilometre threshold.**
24. The maximum payable mileage allowance to each elected member is \$1,825 per annum."

The remainder of the Policy remains unaffected by this change.

Recommendation

5. That the Council approves the following change to the Elected Members Support Policy, to take immediate effect:

“23. ~~Subject to paragraph 24,~~ A mileage allowance is payable for any distance travelled in excess of 80 kilometres per week **where the travel claimed is:**

- i. **within the city boundary; or**
- ii. **to and within the city boundary where the member resides outside the city boundary, for travel to and from that member’s place of residence.**
- iii. **For clarity, subject to subparagraph (ii) above, the 80 kilometre threshold does not apply when claiming for travel outside of the city boundary, though such travel cannot count towards the 80 kilometre threshold.”.**

9th Floor Balcony Balustrade Replacement

I am proposing to replace the balustrade on the 9th floor balcony. The current balustrade has a substantial top rail which significantly obstructs the view from the balcony. The Council hosts many official visitors and international delegations on the 9th floor and typically these visitors greatly appreciate the opportunity to view the city from the deck. The replacement balustrade will be safety glass without a top rail at an approximate cost of \$40,000. This expenditure falls within the Chief Executive’s delegation however given this change affects the 9th floor, Elected Member support is sought. This work is unfunded and will be covered by savings made in the capital works programme.

Recommendation:

6. That Council approves up to \$40,000 for the replacement of the 9th floor deck balustrade with safety glass.

Andrew King
Mayor – Hamilton City Council

Council Report

Item 8

Committee: Council
Author: Riki Manarangi
Position: Corporate Policy Specialist
Date: 16 November 2017
Authoriser: Sean Hickey
Position: General Manager Strategy and Communications

Report Name: Policy Review - Class 4 Gambling Venue Policy

Report Status	<i>Open</i>
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Purpose

1. To inform the Council regarding three options for consideration relating to the Class 4 Gambling Venue Policy review.

Staff Recommendation

2. That the Council:
 - a) receives this report and no amendments are made to the existing Class 4 Gambling Venue Policy
or
 - b) receives this report and approves option 2 (attachment 4) as the draft Class 4 Gambling Venue Policy for consultation between 5 February 2018 and 5 March 2018
or
 - c) receives this report and approves option 3 (attachment 5) as the draft Class 4 Gambling Venue Policy for consultation between 5 February 2018 and 5 March 2018

Executive Summary

3. The Gambling Act 2003 (**the Act**) allows for the growth of gambling to be controlled through territorial authorities.
4. The Act requires all councils to have a Class 4 Gambling Venue Policy (**class 4 policy**) (s101(1), the Act).
5. A class 4 policy must specify whether new venues may be established and where they may be located, if venues can relocate, how many machines they may have, and what the primary activity of the venue must be.
6. The Council adopted its existing class 4 policy in September 2016. The existing class 4 policy is a 'sinking lid' class 4 policy only allowing for limited relocations and mergers.
7. On Tuesday 8 August 2017, the Community and Services Committee resolved to review the existing class 4 policy.
8. If the Council does not amend the existing class 4 policy, the Council is not required to consult.

9. The adoption of a new class 4 policy/amendment of the existing class 4 policy would entail:
 - use of the special consultative procedure (**SCP**) under s83 of the Local Government Act 2002 (**LGA**) meaning that the Council is legislatively required to consult for a minimum consultation period of one month; and
 - providing the opportunity for submitters to present their views in a spoken form in April 2018; and
 - a deliberations report presented to the Council in May 2018 for a decision whether to adopt the draft class 4 policy or not.
10. The Council has three options to consider as per the staff recommendation:
 - **Option 1** – Maintain the status quo of the Council’s existing sinking lid class 4 policy with limited relocations and mergers. The resolution for this option will be to receive this report with no amendments made to the Council’s existing class 4 policy
 - **Option 2** – approve the draft sinking lid class 4 policy with further relocation and merger restrictions for consultation
 - **Option 3** – approve the draft sinking lid class 4 policy with no relocations or mergers permitted for consultation.
11. The recommendation presented complies with the Council’s legal requirements.

Background

12. The Act requires all councils to have a class 4 policy (s101(1), the Act).
13. Under s101(4) of the Act, the class 4 policy:
 - must specify whether or not class 4 venues may be established and, if so, where they may be located; and
 - may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue; and
 - may include a relocation policy.
14. Under s101(4) of the Act, in determining the class 4 policy, the Council may have regard to any relevant matters, including:
 - the characteristics of the district and parts of the district
 - the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities
 - the number of gaming machines that should be permitted to operate at any venue or class of venue
 - the cumulative effects of additional opportunities for gambling in the district
 - how close any venue should be permitted to be to any other venue
 - what the primary activity at any venue should be.
15. For venues operated by clubs, the class 4 policy must also include statements on:
 - whether to allow existing club venues to increase the number of machines, up to a maximum of 18 machines; and
 - how many machines will be allowed (up to a maximum of 30), when two club venues merge into one venue.
16. In both cases, the Council is required to give consent before the club may seek permission from the Minister of Internal Affairs, who makes a final decision.
17. The Council assesses any venue consent applications for a new venue against the class 4 policy.

18. The DIA is responsible for determining new venue licences upon receipt of a completed application form which must include a venue consent provided by the Council:

The Council's Role	Department of Internal Affairs Role
<ul style="list-style-type: none"> Determine New Venue Consents (location and machines by applying the class 4 policy) Provide New Venue Consents 	<ul style="list-style-type: none"> Regulate Existing Venues Issue/Renew Venue Licences (upon receipt of application which includes Council's venue consent).

Discussion and Options

19. In approving a class 4 policy, the Council must have regard to the social impact of gambling within Hamilton City (s101(2), the Act). The social impact will be considered by the Council given the following:

- the elected members being representative of the community
- a problem gambling foundation report (June 2017) (based on DIA data, 2013 Census data and the 2013 deprivation index from the Department of Public Health, University of Otago) (**attachment 1**)
- Waikato District Health Board: Position Statement on Gambling (outlining the social impact of gambling) (Nov 2015) (**attachment 2**)
- written and verbal feedback received during the submission period by the community.

20. Staff have assessed and recommend that the Council consider the following three reasonable and viable options:

- Option 1** – Maintain the status quo of the Council's existing sinking lid class 4 policy with limited relocations and mergers. The resolution for this option will be to receive this report with no amendments made to the Council's existing class 4 policy (**attachment 3**)
- Option 2** – approves the draft sinking lid class 4 policy with further relocation and merger restrictions (**attachment 4**) for consultation
- Option 3** – approves the draft sinking lid class 4 policy with no relocations or mergers permitted (**attachment 5**) for consultation.

21. Each option is outlined in further detail in the below tables:

Option 1 – Retain status quo – existing sinking lid policy adopted Sept 2016.	
Overview	Sinking lid on venues and machines only allowing for limited relocation and mergers.
Consultation required	No consultation
Review date (scheduled)	Sept 2019 (Scheduled review at the end of its three year course)
Key Elements	Relocations (Clauses 4-7 and 12) <ul style="list-style-type: none"> Outside of a gambling area into a gambling area. Within a gambling area if the: <ul style="list-style-type: none"> venue is physically incapable of being reused for the purpose of the venue landlord refuses to renew a lease building deemed earthquake-prone, dangerous or insanitary.

<p>7) Corporate societies can relocate machines when a specific event occurs outside their control (e.g. landlord will not renew lease, building is deemed insanitary) under the existing policy.</p> <p>8) Relocations and mergers may allow for more productive use of land by reducing barriers to venues from freeing up prime land/leases under the existing policy.</p> <p>9) Opportunity to consider the Waikato DHB’s 2018 October position statement (the current position statement was produced in Nov 2015 and the Waikato DHB review these statements every three years) prior to scheduled policy review.</p>	
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Option 2 – Adoption of new sinking lid policy for consultation - further restrictions on relocations and mergers that existing policy.	
Overview	Sinking lid on venues and machines only allowing for limited relocation and mergers.
Consultation required	Full Special Consultative Procedure (Public consultation of four (4) weeks minimum and opportunity for verbal submissions required)
Review date (Scheduled)	May 2020
Key Elements	<p>Relocations (Clauses 13-15)</p> <ul style="list-style-type: none"> • Comparable with the existing policy except more restrictive to promote a reduction in gaming venues as relocation (into a gambling area) can only occur if the: <ul style="list-style-type: none"> ○ venue is physically incapable of being reused for the purpose of the venue or building deemed earthquake-prone, dangerous, insanitary; OR ○ new venue site is within 200 metre proximity and the venue is keeping same name, operator and management. <p><i><u>Example 1:</u> If a venue site is destroyed due to a fire it will be allowed to relocate within a gambling area (subject to restrictions in clause 14 e.g. cannot be within 50 metres of another venue or the Casino).</i></p> <p><i><u>Example 2:</u> If a landlord refuses to renew a lease for a venue site, the venue will <u>not</u> be allowed to relocate.</i></p> <p><i><u>Example 3:</u> A venue that keeps its same name, operator and management can move next door (subject to restrictions in clause 14 e.g. cannot be within 100 metres of a residential zone).</i></p> <p><i><u>Example 4:</u> A venue that keeps its same name, operator and management will <u>not</u> be allowed to relocate next door if the proposed site is within 50 metres of another venue.</i></p>

Item 8

	<p>Club Mergers (Clauses 11-12)</p> <ul style="list-style-type: none"> • Comparable with the existing policy except only the sum of 5/6th of machines previous operated by each club to promote a reduction in gaming machines upon a merger. <p><i>Example: two clubs with nine (9) machines each will only be allowed 15 machines at a new combined club venue.</i></p>
Costs (future)	<p>\$7,000-\$17,000 (depending on submissions received)</p> <ul style="list-style-type: none"> • Public Consultation. • Submission Analysis. • Hearings Report. • Deliberations Report.
<p>Advantages Disadvantages</p>	
<p>1) Provides the community opportunity to be consulted on an alternative policy position.</p> <p>2) Gaming venues and gaming machine numbers cannot increase.</p> <p>3) Community funding still available from corporate societies in proposed policy until all venues are permanently closed.</p> <p>4) The introduction of “the sum of 5/6th of gambling machines previously operated by each club” upon a club merger in the proposed policy allows for a balance between the option to relocate and active reduction in gaming machines.</p> <p>5) Corporate societies may be able to relocate machines when an event occurs outside their control in the proposed policy (e.g. building is deemed insanitary).</p> <p>6) Relocations in the proposed policy may allow for more productive use of land by reducing barriers to venues from freeing up prime land/leases.</p> <p>7) The restriction around a relocation within a 200 metre proximity with the venue keeping same name, operator and management is consistent with what is permitted by common law.</p>	<p>8) Further staff resourcing and costs of approximately \$7000-\$17,000.</p> <p>9) The opportunity for statistical data over a three year period for the existing policy adopted in September 2016 to understand its effectiveness will be lost if adopted.</p> <p>10) Corporate societies may not feel incentivised to close venues given they will not be able to get a new venue consent.</p> <p>11) Corporate societies will not be able to relocate machines if the landlord of a site refuses to renew their lease in the proposed policy.</p>

Option 3 - Adoption of new sinking lid policy for consultation – no relocations or mergers.	
Overview	Sinking lid on venues and machines with no relocations or mergers permitted.
Consultation required	Full Special Consultative Procedure (Public consultation of four (4) weeks minimum and opportunity for verbal submissions required)
Review date (Scheduled)	May 2020
Key Elements	Relocations <ul style="list-style-type: none"> • No relocations permitted.

	<p><i>Example: A venue site that is destroyed due to a fire will not be permitted to relocate to another venue site.</i></p> <p>Club Mergers</p> <ul style="list-style-type: none"> No club mergers permitted. <p><i>Example: A club that is destroyed due to a fire will not be permitted to merge its gambling operations with another club.</i></p>
Costs (future)	<p>\$7,000-\$17,000 (depending on submissions received)</p> <ul style="list-style-type: none"> Public Consultation. Submission Analysis. Hearings Report. Deliberations Report.
Advantages	
<ol style="list-style-type: none"> Provides the community opportunity to be consulted on an alternative policy position. Gaming venues and gaming machine numbers cannot increase in proposed policy. Community funding still available from corporate societies in proposed policy until all venues are permanently closed. 	Disadvantages
	<ol style="list-style-type: none"> Further staff resourcing and costs of approximately \$7000-\$17,000. The opportunity for statistical data over a three-year period for the existing policy adopted in September 2016 to understand its effectiveness will be lost if adopted. Corporate societies may not feel incentivised to close venues given they will not be able to get a new venue consent. No relocations in the proposed policy will deny any opportunity for more productive use of land by reducing barriers to venues from freeing up prime land/leases. Corporate societies will not be able to relocate machines when an event occurs outside their control in the proposed policy (e.g. building is deemed insanitary).

Financial Considerations

- The preparation and presentation of this report is a regular activity funded through the 10-year plan.
- The approximate cost for the preparation and presentation of this report is \$3000 (staff time).
- The approximate costs relating to each option are outlined in the options analysis.

Legal and Policy Considerations

- Staff confirm that the recommendation in the report complies with the Council's legal and policy requirements. Any relevant legislation and provisions within have been detailed throughout the report in the relevant sections to provide context.

Cultural Considerations

- Cultural considerations will be addressed with organisations representing Maaori in Hamilton City, given notice of the proposed class 4 policy and their opportunity to provide feedback on it.

Risks

27. As the existing class 4 policy is not legislatively required to be reviewed until September 2019, there are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy

Significance

28. Given the statutory requirement to consult only if the Council decides to approve a new class 4 policy or amend the existing class 4 policy, staff have not considered the key considerations under the Significance and Engagement Policy to assess the significance of the matter(s) in this report.

Engagement

29. The Council does not need to consult if it receives this report and no amendments are made to the existing class 4 policy (option 1).
30. The Council must consult and in accordance with the Act if either draft class 4 policy is approved for consultation (options 2 or 3). The statutory requirements include:
- a requirement to give notice to each corporate society that holds a class 4 venue licence for a venue and organisations representing Maaori in Hamilton City (s102, the Act)
 - a requirement to follow the SCP process which includes a minimum consultation period of one month, a Statement of Proposal (**SOP**) and the opportunity for submitters to present their views in a spoken form to the Council (s102, the Act; s83, LGA).
31. The proposed consultation approach to meet the legislative requirements will be through:
- submissions received via the Council's online 'Have your say' forum for one (1) month (between 5 February 2018 and 5 March 2018); and
 - letters/emails to corporate societies that hold a class 4 venue licence and organisations representing Maaori in Hamilton City providing them notice of the proposed class 4 policy and inviting them to participate; and
 - an opportunity for submitters to present their views in a spoken form in May 2018.

Attachments

Attachment 1 - Problem Gambling Foundation Report

Attachment 2 - Waikato District Health Boards: Position Statement on Gambling

Attachment 3 - Existing Class 4 Gambling Venue Policy (Option 1)

Attachment 4 - Statement of Proposal including Policy (Option 2)

Attachment 5 - Statement of Proposal including Policy (Option 3) .

Pokies by the numbers in Hamilton City

Based on DIA data current to 30 June 2017

In the last 12 months, **\$23,585,701** was lost to pokie machines in Hamilton City - that's 2.71% of the total GMP¹ in New Zealand over that time. Hamilton City has 3.29% of NZ's adult (15+) population.

Hamilton City has **432** pokie machines in **28** venues - that's 1 machine for every 243 adults.

There are an estimated **14,713** pokie users² in Hamilton City, each spending an average of **\$1,603**. That's nearly six weeks' worth of rent³.

If you list all TLAs in New Zealand by how much the average pokie user spends each year, Hamilton City is number **46 out of 67**.

A note on problem gambling prevalence

According to the National Gambling Study⁴, an estimated **2.5% of all New Zealanders** are problem or moderate-risk gamblers. These rates vary by ethnicity:

Ethnicity	PG/MRG Prevalence
Māori	6.2%
Pasifika	8.0%
Asian	3.0%
European/Other	1.8%

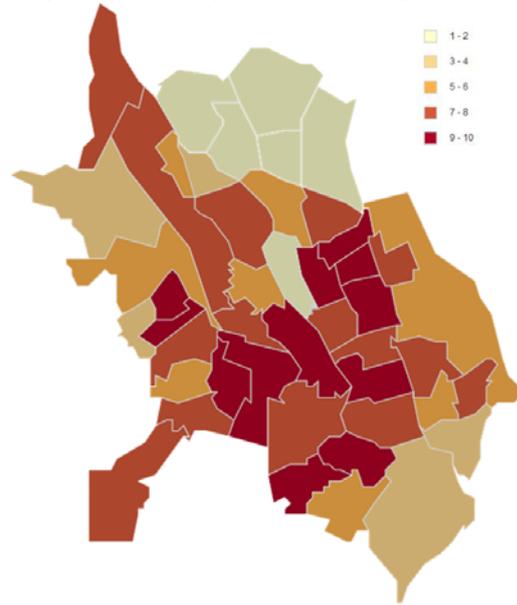
1 Gross machine profit, or the amount wagered minus the amount won.

2 This figure is based on 14% of the adult population, which the National Gambling Study (2014, Abbott et al) found to be the past-year participation rate for EGMs.

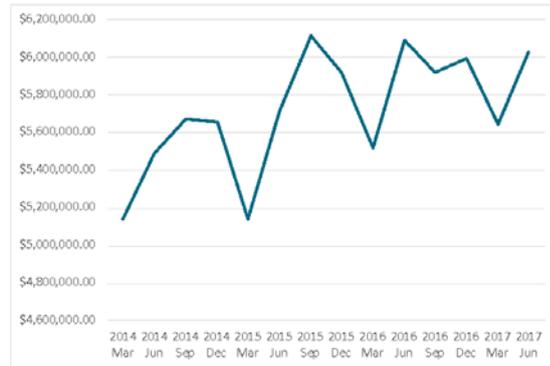
3 Based on Hamilton City median weekly rent; see "QuickStats about Hamilton City".

4 Abbott, M., Bellringer, M., Garrett, N., & Mundy-McPherson, S. (2014). New Zealand 2012 National gambling study: Gambling harm and problem gambling. Wellington: Ministry of Health.

Hamilton City area units showing socioeconomic deprivation (NZDep2013 Index of Deprivation)



Hamilton City GMP, 2013-present



PROBLEM GAMBLING FOUNDATION OF NEW ZEALAND

Healthy communities free from gambling harm

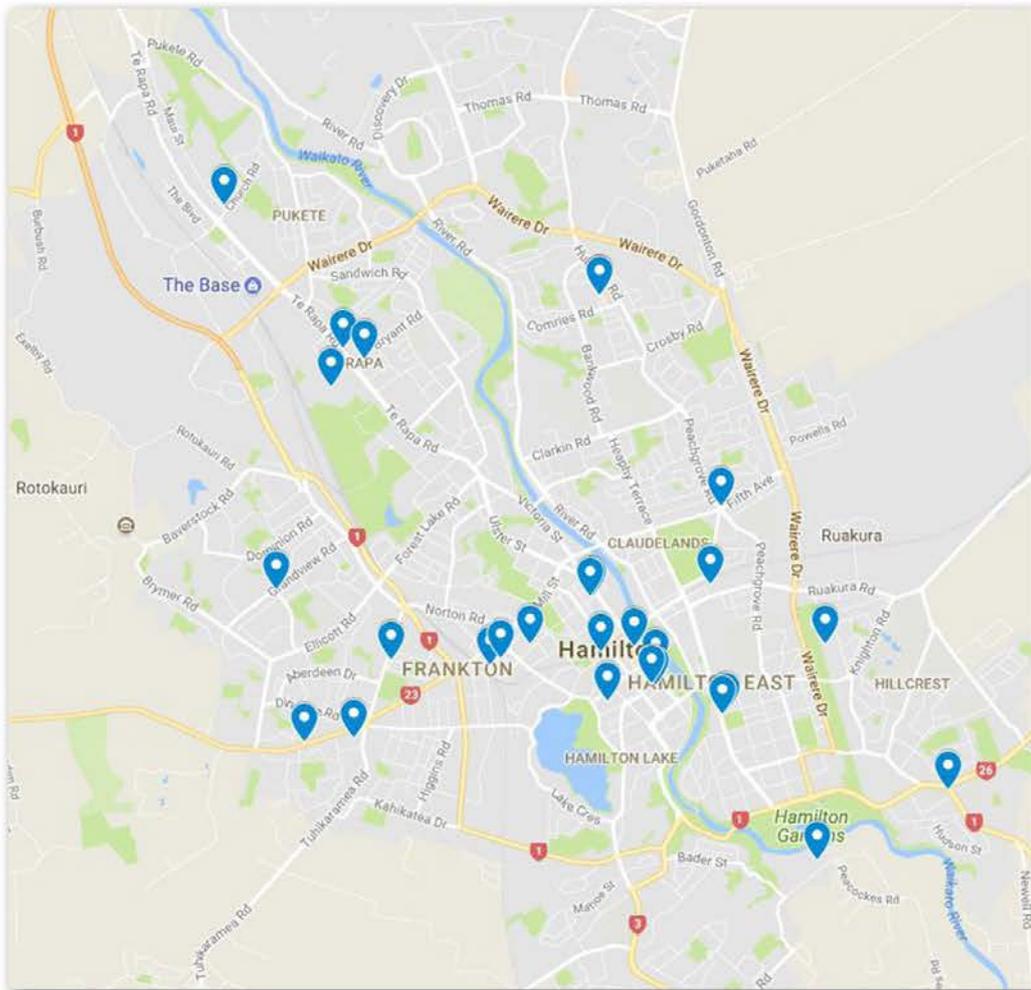
For free and confidential counselling call **0800 664 262**

Visit www.pgfnz.org.nz for fact sheets, support services and more

Hamilton City venue information

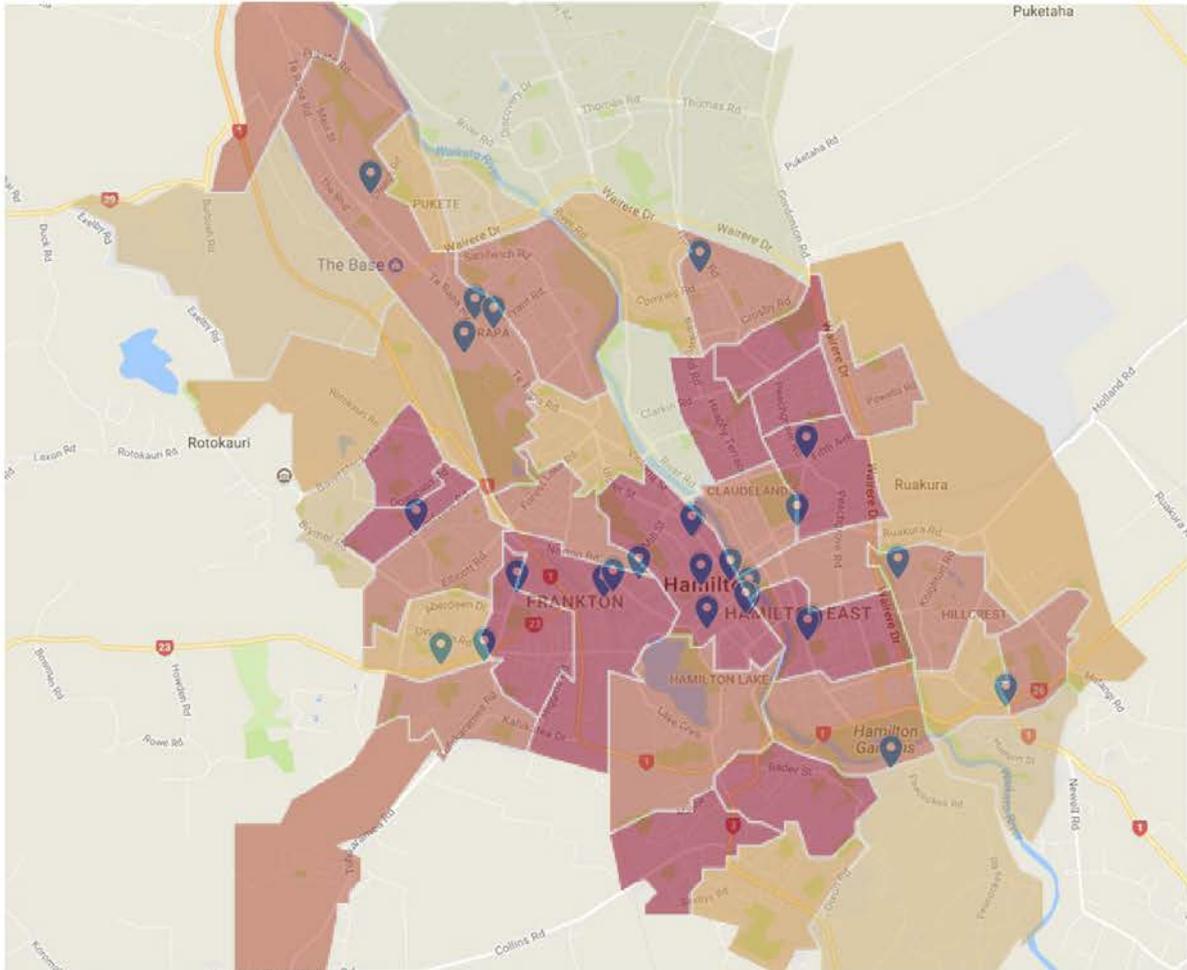
Society Name	Venue Name	Venue Address	Number of Pokies
Frankton Railway Bowling Club (Inc)	Frankton Railway Bowling Club (Inc)	51a Rifle Range Road, Frankton, Hamilton 3204	7
Glenview Club Incorporated	Glenview Club	211-217 Peacocks Road, Glenview, Hamilton 2001	9
Grassroots Trust Limited	5 Crossroads Sports Bar and Cafe	5 Cross Roads Shopping Centre 236 Peachgrove Road, Claudelands, Hamilton 3214	9
	Bar 101	192 Victoria Street, Hamilton Central, Hamilton 3204	18
	Homestead Bar And Eatery	276 Cambridge Road, Hillcrest, Hamilton 3216	18
	Smith & Mckenzie Chophouse	Unit 1 13 Lynden Court, Chartwell, Hamilton 2001	18
	Square Leg	38a Hood Street, Hamilton Central, Hamilton 3204, New Zealand	18
	The Cook Cafe & Bar	7 Cook Street, Hamilton Central, Hamilton 3204	12
	The Dinsdale Office	Unit 40 Dinsdale Shopping Centre Whatawhata Road, Hamilton Central, Hamilton 3204	18
	The Riv	Clyde Street Shopping Centre, Hamilton Central, Hamilton 3204	18
	Yardhouse	Grandview Mall Corner Grandview Road & Hyde Avenue, Nawton, Hamilton 3200	18
Hamilton Combined Returned Services Club Incorporated	Hamilton Combined Returned Services Club Incorporated	50 Rostrevor Street, Hamilton Central, Hamilton 3204	18
Hamilton Cosmopolitan Club Incorporated	Hamilton Cosmopolitan Club Incorporated	Claudelands Road, Claudelands, Hamilton 3214	18
Hamilton Workingmens Club Incorporated	Hamilton Workingmen's Club	20 King Street, Hamilton Central, Hamilton 3204	18
Masse Incorporated	Masse Hamilton	60-62 Rostrevor Street, Hamilton Central, Hamilton 3204	18
New Zealand Community Trust	Eastside Tavern	Corner Cook And Grey Streets, Hamilton East, Hamilton 3216	18
	Still Working	Unit 12 13 Lynden Court, Chartwell, Hamilton 2001	9
New Zealand Racing Board	TAB Te Rapa	618 Te Rapa Road, Hamilton Central, Hamilton 3204	9
The Lion Foundation (2008)	Dinsdale Tavern	140 Whatawhata Road, Dinsdale, Hamilton 2001	18
	Hillcrest Tavern	1 York Street, Claudelands, Hamilton 3214	18
	Te Rapa Tavern	2 Mainstreet Place, Te Rapa, Hamilton 3200, New Zealand	18
	The Quadrant	391 Victoria Street, Hamilton Central, Hamilton 3204, New Zealand	12

Society Name	Venue Name	Venue Address	Number of Pokies
The Southern Trust	Aleways Hotel	40 High Street, Frankton, Hamilton 3204	18
Trillian Trust	Lucky Finns	26-28 Hood Street, Hamilton Central, Hamilton 3204	18
	The Cock And Bull (Hamilton)	4 Maui Street, Pukete, Hamilton 2001	9
	The Junction	165 Commerce Street, Frankton, Hamilton 3204	18
	The Local	36 Bryant Road, Te Rapa, Hamilton 3240	18
Waikato Commerce Club Incorporated	Waikato Commerce Club	197 Collingwood Street, Hamilton Central, Hamilton 3204	14



Hamilton City venue map with deprivation index overlay

Note: darker orange indicates higher socioeconomic deprivation

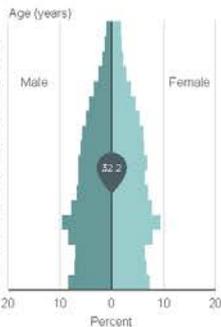


Venue addresses from Department of Internal Affairs. Map from Google Maps. 2013 Deprivation Index from Department of Public Health, University of Otago, Wellington, and interactive online map from Centre for Public Health Research, Massey University. Overlay is estimated based on geographical features.

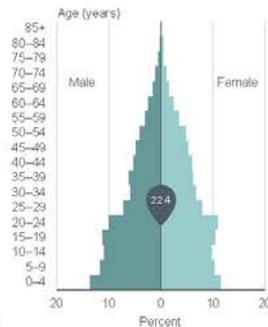
QuickStats about Hamilton City



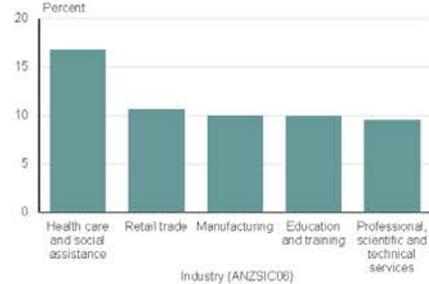
Age and sex of people Hamilton City 2013 Census



Age and sex of Māori Hamilton City 2013 Census



Top five industries in Hamilton City By employee count For year ended February 2013



How Hamilton City compares with the national average

Individuals

Major ethnic groups	Hamilton City	National Average
European	69.5%	74.0%
Māori	21.3%	14.9%
Pacific peoples	5.1%	7.4%
Asian	13.8%	11.8%
Middle Eastern/Latin American/African	2.0%	1.2%
Other	1.6%	1.7%

Percent born overseas
24.0% vs 25.2%

Percent of people with a formal qualification*
80.9% vs 79.1%

Median income*
\$27,700 vs \$28,500

Median income for Māori*
\$21,400 vs \$22,500

Households

Percent of households that own their dwelling*
57.2% vs 64.8%

Median weekly rent
\$290 vs \$280

Percent of households with internet access
77.4% vs 76.8%

This poster summarises results from 2013 Census QuickStats about a place. All results exclude responses that cannot be classified (eg 'not stated', 'response unidentifiable', response outside scope'). The data has been randomly rounded to protect confidentiality.

Sources: Statistics New Zealand

Visit our website for more information
www.stats.govt.nz/2013Census



MEMORANDUM TO THE BOARD
25 NOVEMBER 2015

AGENDA ITEM 8.1

WAIKATO DISTRICT HEALTH BOARD: POSITION STATEMENT ON GAMBLING

Population Health Waikato DHB has developed a set of position statements on identified public health issues. The purpose of these position statements is to provide high level documents representing the Waikato DHB's position as an organisation on these issues.

The position statements clarify for Waikato DHB staff the position that the organisation takes on certain public health issues. Position statements are reviewed every three years.

Population Health has prepared a position statement on Gambling. This is a new position statement. The Gambling Act 2003 (The Act) presents a major change in public policy related to gambling. Before The Act non-casino gaming machines (pokies) and venues proliferated in areas of deprivation and with it, a corresponding increase in gambling-related harm. The Act introduced a strongly regulated regime for gambling and shifted the focus of gambling to public health, harm prevention, and community involvement in decisions related to gambling.

Following is Waikato DHB's position statement on Gambling.

Recommendation

THAT

The Board:

- 1) Receives the report.
- 2) Adopts the position statement on Gambling.

MARK SPITTAL
EXECUTIVE DIRECTOR COMMUNITY & CLINICAL SUPPORT



Position Statement on Gambling

Date: October 2015

Review Date: October 2018

The Waikato District Health Board's Position

1. The Waikato DHB

- 1.1 Recognises that The Gambling Act 2003 (The Act) is the primary legislation that regulates gambling in New Zealand¹.
- 1.2 Recognises that The Act identifies problem gambling as a public health issue and under (s4) interprets a problem gambler as a person whose gambling causes harm or may cause harm. Gambling harm can be personal, social and/or economic and affects not only the person who is gambling but also their family, workplace and wider community².
- 1.3 Recognises that gaming machines (pokies)^A are the most harmful form of gambling. Problem gambling is most commonly associated with gaming machines³. Therefore, the Waikato DHB supports a sinking lid policy approach where neither machine nor venue is replaced as surrendered.
- 1.4 Acknowledges that inequalities exist in the harm caused by gambling with problem gambling rates highest amongst Māori and Pacific peoples.
- 1.5 Acknowledges its role in limiting harm and reducing health disparities and inequalities caused by gambling under s22 (1a), (1e), and (1f) of the New Zealand Public Health and Disability Act 2000⁴.
- 1.6 Recognises that the Ministry of Health is one of three regulatory agencies responsible for minimising gambling-related harm^B. The Ministry of Health is responsible for developing an integrated problem gambling strategy focused on public health⁵. All Waikato DHB responses will align with and compliment the Ministry of Health's key gambling strategic documents.

^A Gaming machines, non-casino gaming machines, electronic gaming machines, and *pokies* are used interchangeably.

^B The Department of Internal Affairs is responsible for compliance, investigations and audits. The NZ Gambling Commission hears casino licensing applications, and appeals on licensing and enforcement decisions made by the Secretary of Internal Affairs in relation to gaming machines and other non-casino gambling activities. The Gambling Commission has the powers of a Commission of Inquiry.

- 1.7 Recognises that The Act devolves responsibilities to local authorities to develop a Class 4 Gambling Venue Policy and a TAB Venue Policy^c which must be reviewed every three years and have regard for the social impact of gambling within their district. The Waikato DHB works alongside local authorities during the review process and continues to advocate for a sinking lid policy approach.
- 1.8 Recognises that gambling behaviour is complex. The extent of gambling harm, its causes and solutions often evokes polarised views and debates that can impinge on robust decision making. The over-reliance on gambling industry profits also conflicts with meaningful progress in reducing harm caused by gambling. Consequently, the Waikato DHB does not support any charitable trust or similar group operating under the Waikato DHB name to either apply for or receive funds derived from class 4 gambling.
- 1.9 Supports a broad range of initiatives to limit the harm caused by gambling over time. Appropriate strategies may include submissions to central government, regulatory agencies, and territorial authorities' gambling policies during public consultation; maintenance of and links with other organisations seeking to minimise gambling related harm, and the provision of gambling harm reduction information to key stakeholder groups and the wider public.

2. Key information

- 2.1 Gambling is big business. New Zealanders gamble about \$2 billion each year. Of the gambling market turnover racing has around 13%, lotteries 17%, casinos 23% and nearly half (47%) is spent on non-casino gaming machines; *pokies*. Introduced in New Zealand in 1988, *pokies* reached a peak of 25,221 machines by 2003 and with it, a corresponding variety of gambling-related problems. Since the Gambling Act 2003 came into force there has been a decline in the number of non-casino gaming machines, venues and expenditure⁶.
- 2.2 *Pokies* are the major cause of gambling harm in New Zealand and the main gambling mode of problem gambling clients seeking help. Approximately 16% of adults play *pokies* at a club or pub. The vast majority of people (84%) never play *pokies*⁷. *Pokies* have been described as the 'crack cocaine of gambling' largely because gambling can and does occur in a continuous and prolonged manner⁷. Every problem gambler affects between five and 17 people with their gambling such as family, friends, community and the workplace⁸.
- 2.3 The prevalence of problem gambling is thought to increase with the increasing density of electronic gaming machines at a rate of 0.8 problem gamblers for each additional pokie machine. Restricting the per capita density of pokies has the potential to lead to reduced gambling opportunity and subsequent harm over time⁶.
- 2.4 The prevalence of problem gambling is estimated at between 1% and 3% of the adult population. It is estimated a further 20% of people are negatively impacted by gambling either by having arguments related to gambling or going without something they needed because of

^c TAB Venue Policy must specify whether the New Zealand Racing Board may establish new stand-alone TABs in the district and, if so, where they may be located. The New Zealand Racing Board requires a consent from the relevant territorial authority before it establishes a new stand-alone TAB.

gambling such as unpaid bills⁹. In Hamilton for example, this equates to around 30,000 people negatively impacted by gambling.

- 2.5 Problem gamblers often have issues with other addictions such as smoking and/or alcohol and the negative impacts of these behaviours. People gamble to 'escape problems' and because 'it's an addiction/compulsion'. The primary reason for not gambling is running out of money¹⁰.
- 2.6 The adverse effects of problem gambling can be widespread. Those with gambling addictions are at risk of turning to crime or other undesirable means to find money to continue gambling. Gambling crime is predominantly monetary. A recent New Zealand study showed that 1.3% of gamblers (approximately 10,000) had committed illegal activities because of gambling. Of these, 25% would not have committed the crime had they not been gambling¹¹. The first gambling-related crime is often committed in the same year as or just a few years after starting regular gambling¹².
- 2.7 Since 2006, KPMG^D International's biennial Australasian Fraud Survey has shown a significant increase in gambling fraud in both Australia and New Zealand. The 2008 survey showed an average value of \$1.1 million per incident. In 2010 the total average value of major fraud by gambling was \$175,456 (\$AUD) and in 2012 frauds associated with gambling were low in number but high in average individual loss; \$2,012,500 (\$AUD)¹³.
- 2.8 Other adverse impacts include family breakdown, disruption to or loss of employment, social isolation¹⁴, and domestic violence. One in 10 gamblers in counselling reported domestic or other violent incidents related to their gambling⁸.
- 2.9 Children are affected in many ways by parents who gamble including being left in vehicles outside casinos and gambling venues. Children with parents who have a gambling problem are more likely to become gamblers themselves. Income otherwise used for food, clothing, schooling, healthcare and other essentials, is often diverted into gambling, creating poverty and hardship for the children of gamblers. The risk associated with this is truancy, dropping in and out of school and possible earlier entry into drinking, smoking and drug use¹⁴.
- 2.10 Gambling venues are more likely to be located in socioeconomically deprived areas. More than five times as many *pokies* are located in the two most deprived deciles (decile 9 and 10) than in the two least deprived deciles (deciles 1 and 2). The distribution of *pokies* by deprivation has not changed significantly since 2003. If *pokies* were distributed evenly throughout New Zealand only 30% would be located in deciles 8-10¹⁵. Maori and Pacific Peoples who disproportionately reside in socioeconomically deprived areas are exposed to greater opportunities to gamble and experience greater gambling harm. Those living in neighbourhoods with the highest levels of deprivation were five times more likely to report moderate-risk problem gambling than those living in areas of lower deprivation⁹.
- 2.11 Under the Gambling Act 2003, territorial authorities have the statutory ability to influence the outcome of gambling on their communities through the Class 4 Gambling Venue Policy and the TAB Venue Policy.

^D KPMG: operates globally, specialising in Audit, Tax and Advisory services.

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- ² The Gambling Act 2003. S4 Interpretation. Retrieved from <http://www.legislation.govt.nz/act/public/2003/0051/latest/DLM207804.html>
- ³ Department of Internal Affairs. Retrieved from <http://www.dia.govt.nz/Services-Casino-and-Non-Casino-Gaming-Problem-Gambling>
- ⁴ New Zealand Public Health and Disability Act 2000. Retrieved from <http://www.legislation.govt.nz/act/public/2000/0091/latest/DLM80051.html>
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- ⁶ Storer, J., Abbott, M., Stubbs, J. (2009). *Access or adaptation? A meta analysis of surveys of problem gambling prevalence in Australia and New Zealand with respect to concentration of electronic gaming machines*. International Gambling Studies Vol.9, No.3, December 2009, 225-244.
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- ⁸ Ministry of Health (2008a). A Focus on Problem Gambling: Results of the 2006/07 New Zealand Health survey. Wellington: Author, as cited in Francis Group. Informing the 2009 Problem gambling Needs Assessment: Report for the Ministry of Health. 9 April 2009.
- ⁹ New Zealand 2012 National Gambling Study: Gambling harm and problem gambling. Gambling and Addictions Research Centre, Auckland University of Technology. Final Report Number 2, 1 July 2014
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- ¹¹ Centre for Social and Health Outcomes Research and Evaluation (2008). Assessment of the social impacts of gambling in New Zealand. Auckland: SHORE.
- ¹² Bellringer, M., Abbott, M., Williams, M., & Gao, W. (2008). *Problem gambling – Pacific Islands Families longitudinal study*. Auckland: Gambling and Addictions research Centre, Auckland University of Technology, as cited in Francis Group. Informing the 2009 Problem Gambling Needs Assessment: Report for the Ministry of Health. 9 April 2009.
- ¹³ KPMG. A survey of fraud, bribery and corruption in Australia & New Zealand 2012. Published February 2013. Retrieved from <http://www.kpmg.com/NZ/en/issuesAndInsights/ArticlesPublications/Documents/Fraud-Bribery-and-Corruption-Survey-2012.pdf>
- ¹⁴ Productivity Commission. (1999). *Australia's Gambling Industries Inquiry Report. Chapter 7 The impacts of problem gambling*. URL:<http://www.pc.gov.au/inquiry/gambling/finalreport/index.html> Accessed 2.03.2010.
- ¹⁵ Ministry of Health. 2006. *Problem Gambling Geography of New Zealand 2005*. Wellington: Ministry of Health.

First adopted:	8 March 2004
Revision dates/version:	29 September 2016 / Revision 8
Next review date:	September 2019
Engagement required:	SCP
Document number:	D-2223966
Associated documents:	Gambling Act 2003
Sponsor/Group:	City Growth

CLASS 4 GAMBLING VENUE POLICY

Purpose and Scope

1. To control the growth of Class 4 gambling venues.
2. To minimise the harm caused by Class 4 gambling.

Definitions

Definition	Detail
Adjacent	Allotments sharing one or more common boundaries.
Allotment	<p>a) Any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not:-</p> <p style="padding-left: 40px;">i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or</p> <p style="padding-left: 40px;">ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or</p> <p>b) Any parcel of land or building or part of a building that is shown or identified separately:-</p> <p style="padding-left: 40px;">i). on a survey plan; or</p> <p style="padding-left: 40px;">ii). on a licence within the meaning of Part I of the Companies Amendment Act 1964; or</p> <p>c) Any unit on a unit plan; or</p> <p>d) Any parcel of land not subject to the Land Transfer Act 1952.</p>
Class 4 gambling venue	A building located on one or more contiguous allotments at which gambling machines are located, or for the purposes of application at which it is proposed that gambling machines be located.
Gambling machine	As defined in the Gambling Act 2003.
Premises	A building in which a Class 4 gambling venue is located.
Private club	In this context, meeting the criteria of operating as a club as defined in Section 65 (3), in the Gambling Act 2003.
Society	A corporate society as defined in the Gambling Act 2003 (including reference to Section 33), which has an operator's licence for Class 4 gambling machines.

Policy

3. To be considered for a venue consent under this Policy, the primary activity of a venue must be either for:
 - a. the sale of alcohol or, the sale of alcohol and food where the venue is subject to an on licence (but not being a bring-your-own licence) or club licence; or
 - b. the conducting of race and sports betting in standalone, alcohol free New Zealand Racing Board venues under the Racing Act, 2003 subject to compliance with s 33(3) of the Gambling Act 2003..
4. Council will not grant consent for the establishment of any new Class 4 gambling venues or machines except in the following circumstance(s):
 - a. Where two or more private clubs merge and consolidate the operation of their Class 4 gambling activities at a single gambling venue that is located within a Gambling Permitted Area (Schedule 1); or
 - b. Relocation from a site within a Gambling Permitted Area to another site within the Gambling Permitted Areas will not be permitted except where:
 - i. Clause 12 applies; or
 - ii. The licensee's landlord has refused to renew the lease of the premises; or
 - iii. The building in which the venue is located is deemed under building legislation to be earthquake-prone, dangerous or insanitary; and
The society undertakes to permanently close an existing Class 4 gambling venue located inside of a Gambling Permitted Area as part of an application for new venue consent and the proposed new Class 4 gambling venue is located within a Gambling Permitted Area (outlined in Schedule 1).
 - c. Where a society undertakes to permanently close an existing Class 4 gambling venue located **outside** of a Gambling Permitted Area as part of an application for a new Venue Consent and the proposed new Class 4 gambling venue is located within a Gambling Permitted Area (outlined in Schedule 1).
5. This relocation policy only applies:
 - a. where the applicant surrenders the existing venue licence (with the Department of Internal Affairs) for the existing venue, and
 - b. the application meets all other provisions of this Policy.

Location restrictions

6. If the proposed gambling venue premises is located **within the Central City** (Map 4, Schedule 1):
 - a. the premises must not be adjacent to any other Class 4 gambling venue or casino; and
 - b. must not be adjacent to any school, or early childhood centre; and
 - c. must not be closer than 100 metres (in a straight line) to any residentially or special character zoned land or community facilities zoned land as outlined in the Hamilton City Proposed District Plan (or resulting Operative District Plan).
7. If the proposed gambling venue premises is located **outside of the Central City** (Maps 1,2,3,5,6,7,8,9, Schedule 1):
 - a. the premises must not be within 50m (in a straight line) of the principal entrance of any other Class 4 gambling venue or casino; and
 - b. must not be adjacent to any school, or early childhood centre; and
 - c. must not be closer than 100 metres (in a straight line) to any residentially or special character zoned land or community facilities zoned land as outlined in the Hamilton City Proposed District Plan (or resulting Operative District Plan).

Number of machines

8. On the relocation of a Class 4 gambling venue, the maximum number of machines permitted to operate at the new Class 4 gambling venue at the time when the new Class 4 gambling venue licence takes effect 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 (as prescribed in Section 97A of the Gambling Act 2003).
9. Two or more private clubs which merge may consolidate the number of gambling machines being operated at the merged private club venue to the lesser of:
 - a. 24 gambling machines or
 - b. the sum of the number of gambling machines previously operated by each private club individually.

Application and fees

10. Applications for a Venue Consent must be made on the approved form.
11. Application fees and charges will be set annually through the Annual Plan (fees schedule) process.

Exemptions from meeting parts of the Policy

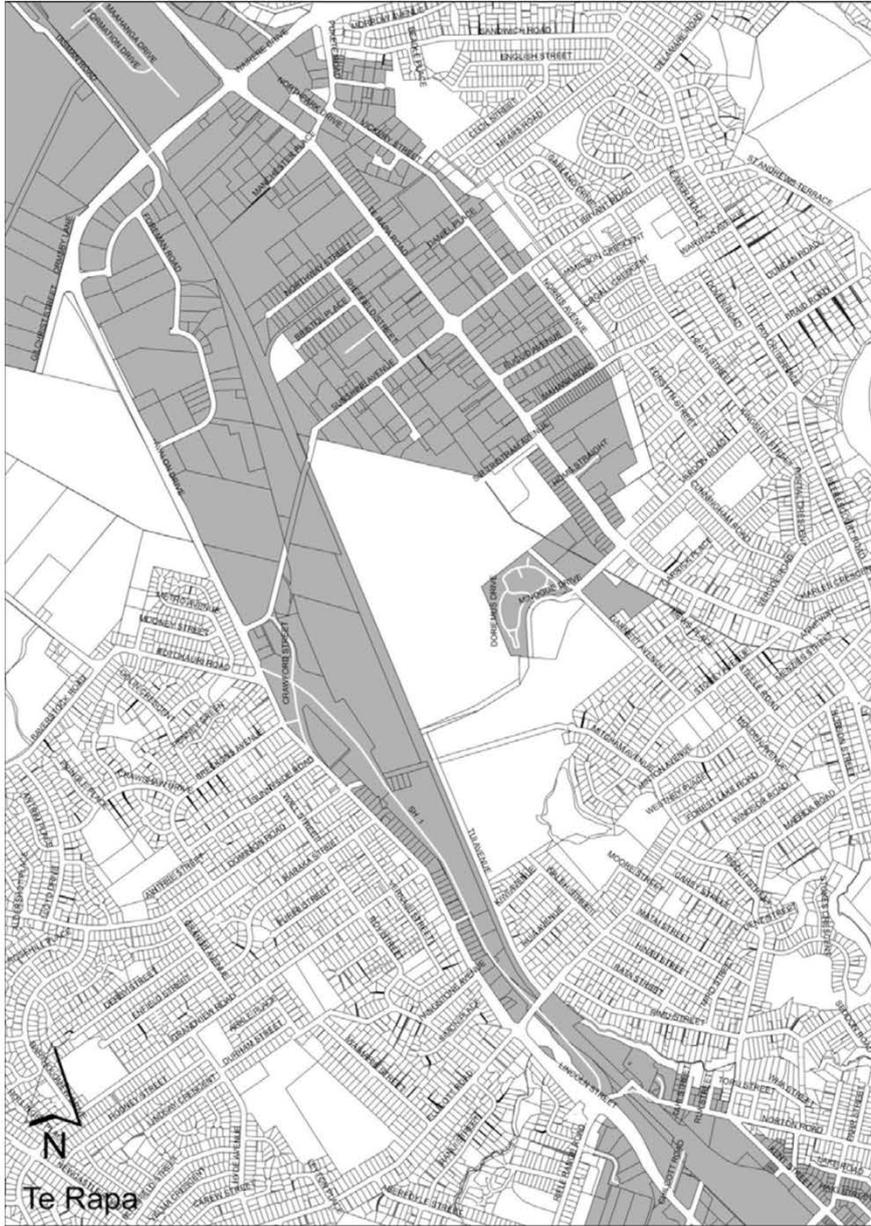
12. Where a legally established venue is required to apply for a venue consent at a new site because its existing site has been rendered physically incapable of being reused for the purpose of the venue (meaning a fire, earthquake or similar event), Council will consider the application under clause 6 and 7 of the venue policy for venue consent. The consent shall allow for up to the number of gambling machines the venue was licensed for, immediately prior to the cessation of activity.

SCHEDULE 1 – GAMBLING PERMITTED AREAS

The Gambling Permitted Area is indicated by the grey shaded areas of the following maps:

- Map 1 - Gambling Permitted Area Northern Te Rapa
- Map 2 - Gambling Permitted Area Southern Te Rapa
- Map 3 - Gambling Permitted area Frankton Industrial
- Map 4 - Gambling Permitted Area Central City
- Map 5 - Gambling Permitted Area Hamilton East
- Map 6 - Gambling Permitted Area Frankton Commercial
- Map 7 - Gambling Permitted Area Dinsdale
- Map 8 - Gambling Permitted Area Claudelands
- Map 9 - Gambling Permitted Area –Chartwell

MAP 2
Gambling Permitted Area, Southern Te Rapa





MAP 4
Gambling Permitted Area, Central City



MAP 5
Gambling Permitted Area, Hamilton East



MAP 6
Gambling Permitted Area, Frankton Commercial



MAP 7
Gambling Permitted Area, Dinsdale



MAP 8
Gambling Permitted Area, Claudelands



MAP 9
Gambling Permitted Area, Chartwell





STATEMENT OF PROPOSAL

Proposed Class 4 Gambling Venue Policy

WHAT'S BEING PROPOSED

Hamilton City Council (**the Council**) is seeking feedback on the proposed Class 4 Gambling Venue Policy (**class 4 policy**).

The proposed policy regulates the location and number of venues and clubs which have gambling machines (**venues**) within Hamilton City.

BACKGROUND

The Gambling Act 2003 (**the Act**) requires the Council to have a class 4 policy. The Council has resolved to review its existing class 4 policy prior to its scheduled review date.

QUICK FACTS

What is the main purpose of the policy?

The Council is required by legislation to create a class 4 policy. The class 4 policy:

- must specify whether or not class 4 venues may be established and, if so, where they may be located; and
- may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue; and
- may include a relocation policy.

How does the policy work?

The policy outlines the process that the Council will follow in relation to an application for a new venue consent.

What venues does the policy apply to?

The policy applies to any application for a new venue consent upon a request to relocate. The policy does not regulate existing venues that do not wish to change their venue.

Who manages the policy?

Hamilton City Council is the Territorial Authority responsible for managing the policy in accordance with the Act.

Is the policy required to be reviewed?

The Council must review the policy no later than three (3) years after its adoption as required under the Act.

OPTIONS

Option A: Adopt the draft Class 4 Policy

This option involves Council adopting the proposed Class 4 Policy. This option complies with the legislative requirements under the Act that requires Council to adopt a policy on Class 4 Gambling Venues.

Option A - Adoption of the draft Class 4 Policy	
Overview	Sinking lid on venues and machines only allowing for limited relocation and mergers.
Review date (Scheduled)	May 2020
Key Elements	<p>Relocations (Clauses 13-15)</p> <ul style="list-style-type: none"> • Comparable with the existing policy except more restrictive to promote a reduction in gaming venues as relocation (into a gambling area) can only occur if the: <ul style="list-style-type: none"> ○ venue is physically incapable of being reused for the purpose of the venue or building deemed earthquake-prone, dangerous, insanitary; OR ○ new venue site is within 200 metre proximity and the venue keeping same name, operator and management. <p><i>Example 1: If a venue site is destroyed due to a fire it will be allowed to relocate within a gambling area (subject to restrictions in clause 14 e.g. cannot be within 50 metres of another venue or the Casino).</i></p> <p><i>Example 2: If a landlord refuses to renew a lease for a venue site, the venue will not be allowed to relocate.</i></p> <p><i>Example 3: A venue that keeps its same name, operator and management can move next door (subject to restrictions in clause 14 e.g. cannot be within 100 metres of a residential zone).</i></p> <p><i>Example 4: A venue that keeps its same name, operator and management will not be allowed to relocate next door if the proposed site is within 50 metres of another venue.</i></p> <p>Club Mergers (Clauses 11-12)</p> <ul style="list-style-type: none"> • Comparable with the existing policy except only the sum of 5/6th of machines previous operated by each club to promote a reduction in gaming machines upon a merger. <p><i>Example: two clubs with 9 machines each will only be allowed 15 machines at a new combined club venue.</i></p>

Advantages	Disadvantages
<p>1) Provides the community opportunity to be consulted on an alternative policy position.</p> <p>2) Gaming venues and gaming machine</p>	<p>8) The opportunity for statistical data over a three year period for the existing policy adopted in September 2016 to understand its effectiveness will be lost if</p>

<p>numbers cannot increase.</p> <p>3) Community funding still available from corporate societies in proposed policy until all venues are permanently closed.</p> <p>4) The introduction of “the sum of 5/6th of gambling machines previously operated by each club” upon a club merger in the proposed policy allows for a balance between the option to relocate and active reduction in gaming machines.</p> <p>5) Corporate societies may be able to relocate machines when an event occurs outside their control in the proposed policy (e.g. building is deemed insanitary).</p> <p>6) Relocations in the proposed policy may allow for more productive use of land by reducing barriers to venues from freeing up prime land/leases.</p> <p>7) The restriction around a relocation within a 200 metre proximity with the venue keeping same name, operator and management is consistent with what is permitted by common law.</p>	<p>adopted.</p> <p>9) Corporate Societies may not feel incentivised to close venues given they will not be able to get a new venue consent.</p> <p>10) Corporate societies will not be able to relocate machines if the landlord of a site refuses to renew their lease in the proposed policy.</p>
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Option B: Do not adopt the draft Class 4 Policy

This option involves Council not adopting the proposed Class 4 policy. By not adopting the proposed Class 4 policy, it means that the existing policy will remain in place until it is reviewed (scheduled review date Sept 2019).

Option B – Do not adopt the draft Class 4 Policy (Retain status quo - existing policy)	
Overview	Sinking lid on venues and machines only allowing for limited relocation and mergers.
Review date (Scheduled)	September 2019
Key Elements	<p>Relocations</p> <ul style="list-style-type: none"> • Outside of a gambling area into a gambling area. • Within a gambling area if the: <ul style="list-style-type: none"> - venue is physically incapable of being reused for the purpose of the venue - landlord refuses to renew a lease - building deemed earthquake-prone, dangerous or insanitary. • Further relocation restrictions in relation to: <ul style="list-style-type: none"> - Other venues - The Casino - Schools/Early Childhood Centres - Residential/Special Character/Community Facilities Zones <p><i>Example 1: A venue outside of a gambling area can currently relocate to anywhere within a gambling area (subject to relocation restrictions above e.g. cannot be within 100 metres of a residential zone).</i></p>

	<p><u>Example 2:</u> If a landlord increases the rent of a venue site, a venue will <u>not</u> be able to relocate.</p> <p><u>Example 3:</u> If a venue site inside of a gambling area is destroyed due to a fire it will be allowed to relocate within 50 metres of another venue (subject to relocation restrictions above e.g. cannot be within 100 metres of a residential zone).</p> <p><u>Example 4:</u> A venue outside of a gambling area will <u>not</u> be allowed to relocate next to another venue even if it is within a gambling area.</p> <p>Club Mergers (Clauses 4a and 9)</p> <ul style="list-style-type: none"> • Permitted for a combined venue within the gambling area. • Max of lesser: <ul style="list-style-type: none"> - 24 machines - sum of machines previously operated by each club <p><u>Example:</u> two clubs with 9 machines each are currently allowed 18 machines at a new combined club venue.</p>
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Advantages	Disadvantages
<ol style="list-style-type: none"> 1) Policy continues to be effective upon resolving to receive the report and to make no amendments made to the existing policy. 2) No further costs or staff resourcing as the policy is already in place. 3) Restrictions around relocation including proximity to sensitive sites already in the existing policy. 4) Gaming venues and gaming machine numbers cannot increase under the existing policy. 5) Enables (policy only adopted in September 2016) the collecting of statistical data over three year period to ensure an informed decision understanding how effective the existing policy has been. 6) Community funding still possible from corporate societies until all venues are permanently closed under the existing policy. 7) Corporate societies can relocate machines when a specific event occurs outside their control (e.g. landlord will not renew lease, building is deemed insanitary) under the existing policy. 8) Relocations and mergers may allow for 	<ol style="list-style-type: none"> 10) Does not give the community opportunity to be consulted on an alternative policy position. 11) Corporate Societies may not feel incentivised to cease gaming operations given they will not be able to get a new venue consent.

<p>more productive use of land by reducing barriers to venues from freeing up prime land/leases under the existing policy.</p> <p>9) Opportunity to consider the Waikato DHB's 2018 (Oct) position statement (the current position statement was produced in Nov 2015 and the Waikato DHB review these statements every three years) prior to scheduled policy review.</p>	
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TELL US YOUR THOUGHTS ON THE POLICY

Before making any final decisions, we'd like to have your input.

You can give us feedback from **5 February 2018 to 5 March 2018**.

How to give feedback

There are a number of ways you can give your feedback:

- Fill out a feedback form online at haveyoursay.hamilton.govt.nz
- Fill out the feedback form included in this Statement of Proposal and send to Hamilton City Council, Strategy Unit, Private Bag 3010, Hamilton 3240.
- Fill out the feedback form and deliver it to the Municipal Building Reception Lounge or one of Council's libraries.

Feedback forms and the proposed policy are on our website and available from Council libraries and the ground floor reception of Council's Municipal Building in Garden Place.

For any queries please ring 07 838 6699.

First adopted:	8 March 2004
Revision dates/version:	May 2018 / Revision 9
Next review date:	May 2021
Engagement required:	SCP
Document number:	
Associated documents:	Gambling Act 2003
Sponsor/Group:	City Growth

CLASS 4 GAMBLING VENUE POLICY

Purpose and Scope

1. To control the growth of Class 4 gambling venues.
2. To minimise the harm caused by Class 4 gambling.

Definitions

Term	Means
Adjacent	Allotments sharing one or more common boundaries.
Allotment	Any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not:- i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or Any parcel of land or building or part of a building that is shown or identified separately:- ▪ i). on a survey plan; or ▪ ii). on a licence within the meaning of Part I of the Companies Amendment Act 1964; or Any unit on a unit plan; or Any parcel of land not subject to the Land Transfer Act 1952.
Class 4	Class 4 gambling as defined under Section 30 of the Act.
DIA	The Department of Internal Affairs.
Gaming machine	A device as defined in section 4 of the Act.
Operator's Licence	A class 4 gambling operator licence issued by the DIA to a society under the Act.
Private club	A club as defined in Section 4 of the Act and that intends to operate gambling equipment at a non-commercial venue that it owns or leases and is mainly for the use of club members.
School / Early Childhood Centre	A parcel or adjoining parcels of land that contain a school or licensed Early Childhood Centre as defined in the Education Act 1989.
Society	A corporate society as defined in the Act (including reference to Section 33), which has an operator's licence for Class 4 gaming machines.
The Act	The Gambling Act 2003.
Venue	A Class 4 gambling venue being a place used to operate class 4 gambling as defined in Section 4 of the Act.
Venue consent	A class 4 gambling venue consent provided by the Council to a society in accordance with this policy and the Act.
Venue licence	A class 4 gambling venue licence issued by the DIA to a society under the Act.
Venue site	A building in which a class 4 gambling venue is located.

Background and Scope

3. Class 4 activity is regulated by the Gambling Act 2003.
4. At a national level, Class 4 activity is enforced by the DIA.
5. At a local level, subject to any restrictions in the Act, the Council regulates the number of machines as well as the number and location of new venues in Hamilton City.
6. The Council assesses any venue consent applications for a new venue against this policy.
7. The DIA is responsible for issuing new venue licences to societies upon receipt of a completed application form which must include a venue consent provided by the Council.
8. The Council does not regulate existing venues that do not move or want to move (including the number of machines).

Policy

Primary Activity of Venue

9. The primary activity of the venue must be for:
 - a. the sale of alcohol or, the sale of alcohol and food where the venue is subject to an on licence (but not being a bring-your-own licence) or club licence; or
 - b. the conducting of race and sports betting in standalone, alcohol free New Zealand Racing Board venues under the Racing Act 2003 subject to compliance with s 33(3) of the Act.

New Venue Consents

10. The Council will not a grant venue consent for the establishment of any new venues except where clauses 11 or 13 apply.

Club Mergers

11. The Council will grant a new venue consent for a proposed venue when two or more private clubs merge and consolidate the operation of their Class 4 gambling activities at a single gambling venue that is located within a Gambling Permitted Area (Schedule 1).
12. Two or more private clubs which merge may consolidate the number of gambling machines being operated at the merged private club venue to the lesser of:
 - a. 24 gambling machines or
 - b. the sum of 5/6th of the number of gambling machines previously operated by each private club individually.

Relocations

13. The Council will grant a new venue consent, subject to clause 14 being complied with, for a relocation of a venue from an existing venue site to a proposed venue site inside a Gambling Permitted Area where either:
 - a. The existing venue site is rendered physically incapable of being reused for the purpose of the venue (due to a fire, earthquake or similar event) and/or deemed under legislation to be earthquake-prone, dangerous or insanitary;
 - OR
 - b. the proposed venue site is within 200 metres (in a straight line) of the principal entrance of the proposed venue site from the existing venue site; **and**
 - c. the venue name is the same as its existing venue name; **and**
 - d. the ownership and management of the venue is the same as the existing ownership and

management of the venue.

14. Any proposed venue site must not be:
 - a. adjacent to and/or within 50 metres (in a straight line) of the principal entrance of another venue or a casino; and
 - b. adjacent to any school or early childhood centre; and
 - c. within 100 metres (in a straight line) to any of the following zoned land as outlined in the Hamilton City Operative District Plan:
 - i. residentially zoned land
 - ii. special character zoned land
 - iii. community facilities zoned land
15. The maximum number of gaming machines at the new venue is the same as the maximum number of gaming machines permitted to operate at the old venue (as prescribed in Section 97A of the Act).

Application and fees

16. Applications for a venue consent must be made on the approved form.
17. Application fees and charges will be set annually through the Annual Plan (fees schedule) process.

Monitoring and implementation

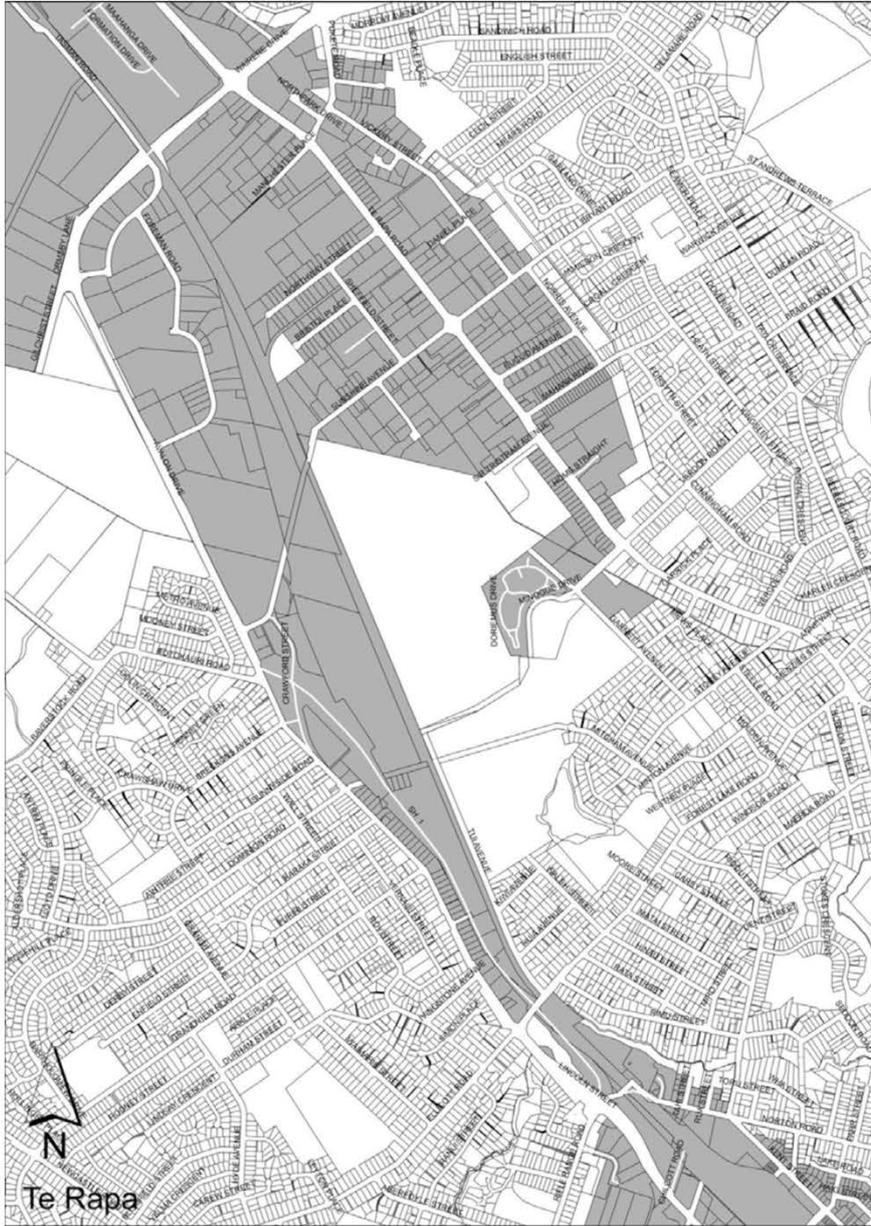
18. The implementation of this policy will be monitored by the General Manager City Growth.
19. The policy will be reviewed in response to any issues that may arise, every three years as required under the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

SCHEDULE 1 – GAMBLING PERMITTED AREAS

The Gambling Permitted Area is indicated by the grey shaded areas of the following maps:

- Map 1 - Gambling Permitted Area Northern Te Rapa
- Map 2 - Gambling Permitted Area Southern Te Rapa
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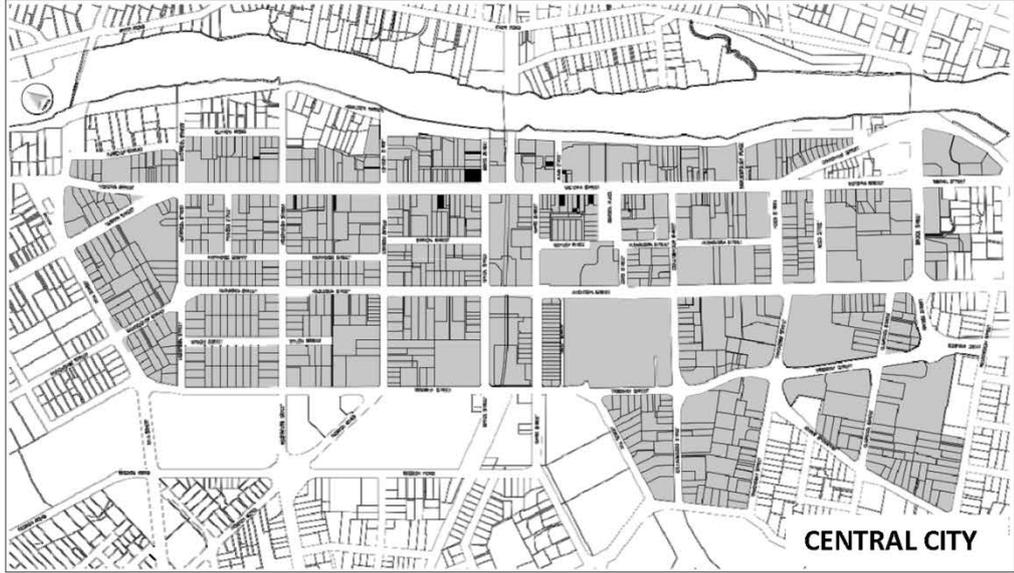
MAP 2
Gambling Permitted Area, Southern Te Rapa



MAP 3
Gambling Permitted Area, Frankton



MAP 4
Gambling Permitted Area, Central City



MAP 5
Gambling Permitted Area, Hamilton East



MAP 6
Gambling Permitted Area, Frankton Commercial



MAP 7
Gambling Permitted Area, Dinsdale



MAP 9
Gambling Permitted Area, Chartwell



FEEDBACK FORM



PROPOSED draft Class 4 Gambling Venue Policy

Hamilton City Council is proposing to adopt the draft Class 4 Gambling Venue Policy. Tell us what you think.

1. Is the approach in the policy that the Council will take to grant new venue consents for club mergers or relocations clear? (Please explain why/why not below).

Yes

No

(Please print clearly) _____

2. Is the approach in the policy the Council will take to grant new venue consents for club mergers or relocations:

Too permissive

Appropriate

Too restrictive

(Please explain clearly why/why not) _____

3. Are you responding as/or representing (tick all that apply)?

- A Class 4 Operator / Venue
- An Incorporated Society or Charitable Trust
- A Social Service Provider
- Other: _____

4. Can you tell us your age group?

- 16-24
- 25-35
- 36-50
- 51-64
- 65+

5. Please provide your contact details (* required fields)

Title: Mr / Mrs / Miss / Ms / Dr

* Name: _____

Organisation (where applicable): _____

Postal Address: _____

_____ Post code: _____

* Phone: (day) _____ (evening) _____

* Email: _____

6. Do you wish to be heard in support of your submission or feedback in April 2018? (This means you will present a summary of your feedback in person to elected representatives.)

- No
- Yes

Please complete the contact details section above, and contact Raewyn;
P: 07 8386537 or E: haveyoursay@hcc.govt.nz to confirm your presentation time.

Note: all feedback/submissions will be treated as public documents, and they may be loaded on to the Council's website with the names and contact details of submitters included.

Please get your feedback to us by the 5 March 2018.

You can:

- Complete it online at haveyoursay.hamilton.govt.nz
- Post the form to Freepost 172189, Strategy Unit, Hamilton City Council, Private Bag 3010, Hamilton 3240
- Drop it off to the Hamilton City Council Office in Garden Place, any Hamilton City Library.



STATEMENT OF PROPOSAL

Proposed Class 4 Gambling Venue Policy

WHAT'S BEING PROPOSED

Hamilton City Council (**the Council**) is seeking feedback on the proposed Class 4 Gambling Venue Policy (**class 4 policy**).

The proposed policy regulates the location and number of venues and clubs which have gambling machines (**venues**) within Hamilton City.

BACKGROUND

The Gambling Act 2003 (**the Act**) requires the Council to have a class 4 policy. The Council has resolved to review its existing class 4 policy prior to its scheduled review date.

QUICK FACTS

What is the main purpose of the policy?

The Council is required by legislation to create a class 4 policy. The class 4 policy:

- must specify whether or not class 4 venues may be established and, if so, where they may be located; and
- may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue; and
- may include a relocation policy.

How does the policy work?

The policy outlines the process that the Council will follow in relation to an application for a new venue consent.

What venues does the policy apply to?

The policy applies to any application for a new venue consent upon a request to relocate. The policy does not regulate existing venues that do not wish to change their venue.

Who manages the policy?

Hamilton City Council is the Territorial Authority responsible for managing the policy in accordance with the Act.

Is the policy required to be reviewed?

The Council must review the policy no later than three (3) years after its adoption as required under the Act.

OPTIONS

Option A: Adopt the draft Class 4 Policy

This option involves Council adopting the proposed Class 4 Policy. This option complies with the legislative requirements under the Act that requires Council to adopt a policy on Class 4 Gambling Venues.

Option A - Adoption the draft Class 4 Policy	
Overview	Sinking lid on venues and machines with no relocations or mergers permitted.
Review date (Scheduled)	May 2020
Key Elements	<p>Relocations</p> <ul style="list-style-type: none"> No relocations permitted. <p><i>Example: A venue site that is destroyed due to a fire will not be permitted to relocate to another venue site.</i></p> <p>Club Mergers</p> <ul style="list-style-type: none"> No club mergers permitted. <p><i>Example: A club that is destroyed due to a fire will not be permitted to merge its gambling operations with another club.</i></p>
Advantages	Disadvantages
<ol style="list-style-type: none"> Provides the community opportunity to be consulted on an alternative policy position. Gaming venues and gaming machine numbers cannot increase in proposed policy. Community funding still available from corporate societies in proposed policy until all venues are permanently closed. 	<ol style="list-style-type: none"> Further staff resourcing and costs of approximately \$7000-17,000. The opportunity for statistical data over a three year period for the existing policy adopted in September 2016 to understand its effectiveness will be lost if adopted. Corporate societies may not feel incentivised to close venues given they will not be able to get a new venue consent. No relocations in the proposed policy will deny any opportunity for more productive use of land by reducing barriers to venues from freeing up prime land/leases. Corporate societies will not be able to relocate machines when an event occurs outside their control in the proposed policy (e.g. building is deemed insanitary).

Option B: Do not adopt the draft Class 4 Policy

This option involves Council not adopting the proposed Class 4 policy. By not adopting the proposed Class 4 policy, it means that the existing policy will remain in place until it is reviewed (scheduled review date Sept 2019).

Option B – Do not adopt the draft Class 4 Policy (Retain status quo - existing policy)	
Overview	Sinking lid on venues and machines only allowing for limited relocation and mergers.
Review date (Scheduled)	September 2019

<p>Key Elements</p>	<p>Relocations</p> <ul style="list-style-type: none"> • Outside of a gambling area into a gambling area. • Within a gambling area if the: <ul style="list-style-type: none"> - venue is physically incapable of being reused for the purpose of the venue - landlord refuses to renew a lease - building deemed earthquake-prone, dangerous or insanitary. • Further relocation restrictions in relation to: <ul style="list-style-type: none"> - Other venues - The Casino - Schools/Early Childhood Centres - Residential/Special Character/Community Facilities Zones <p><i>Example 1: A venue outside of a gambling area can currently relocate to anywhere within a gambling area (subject to relocation restrictions above e.g. cannot be within 100 metres of a residential zone).</i></p> <p><i>Example 2: If a landlord increases the rent of a venue site, a venue will <u>not</u> be able to relocate.</i></p> <p><i>Example 3: If a venue site inside of a gambling area is destroyed due to a fire it will be allowed to relocate within 50 metres of another venue (subject to relocation restrictions above e.g. cannot be within 100 metres of a residential zone).</i></p> <p><i>Example 4: A venue outside of a gambling area will <u>not</u> be allowed to relocate next to another venue even if it is within a gambling area.</i></p> <p>Club Mergers (Clauses 4a and 9)</p> <ul style="list-style-type: none"> • Permitted for a combined venue within the gambling area. • Max of lesser: <ul style="list-style-type: none"> - 24 machines - sum of machines previously operated by each club <p><i>Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club venue.</i></p>
<p>Advantages</p>	<p>Disadvantages</p>
<p>1) Policy continues to be effective upon resolving to receive the report and to make no amendments made to the existing policy.</p> <p>2) No further costs or staff resourcing as the policy is already in place.</p> <p>3) Restrictions around relocation including proximity to sensitive sites already in the existing policy.</p> <p>4) Gaming venues and gaming machine numbers cannot increase under the existing policy.</p> <p>5) Enables (policy only adopted in September 2016) the collecting of statistical data over three year period</p>	<p>10) Does not give the community opportunity to be consulted on an alternative policy position.</p> <p>11) Corporate Societies may not feel incentivised to cease gaming operations given they will not be able to get a new venue consent.</p>

<p>to ensure an informed decision understanding how effective the existing policy has been.</p> <p>6) Community funding still possible from corporate societies until all venues are permanently closed under the existing policy.</p> <p>7) Corporate societies can relocate machines when a specific event occurs outside their control (e.g. landlord will not renew lease, building is deemed insanitary) under the existing policy.</p> <p>8) Relocations and mergers may allow for more productive use of land by reducing barriers to venues from freeing up prime land/leases under the existing policy.</p> <p>9) Opportunity to consider the Waikato DHB's 2018 (Oct) position statement (the current position statement was produced in Nov 2015 and the Waikato DHB review these statements every three years) prior to scheduled policy review.</p>	
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TELL US YOUR THOUGHTS ON THE POLICY

Before making any final decisions, we'd like to have your input.

You can give us feedback from **5 February 2018 to 5 March 2018**.

How to give feedback

There are a number of ways you can give your feedback:

- Fill out a feedback form online at haveyoursay.hamilton.govt.nz
- Fill out the feedback form included in this Statement of Proposal and send to Hamilton City Council, Strategy Unit, Private Bag 3010, Hamilton 3240.
- Fill out the feedback form and deliver it to the Municipal Building Reception Lounge or one of Council's libraries.

Feedback forms and the proposed policy are on our website and available from Council libraries and the ground floor reception of Council's Municipal Building in Garden Place.

For any queries please ring 07 838 6699.

<i>First adopted:</i>	8 March 2004
Revision dates/version:	May 2018 / Revision 9
Next review date:	May 2021
Engagement required:	SCP
Document number:	
Associated documents:	Gambling Act 2003
Sponsor/Group:	City Growth

CLASS 4 GAMBLING VENUE POLICY

Purpose and Scope

1. To control the growth of Class 4 gambling venues.
2. To minimise the harm caused by Class 4 gambling.

Definitions

Term	Means
Venue	A Class 4 gambling venue being a place used to operate class 4 gambling as defined in Section 4 of the Act.
Venue consent	A class 4 gambling venue consent provided by the Council to a society in accordance with this policy and the Act.

Policy

3. To hold a venue consent under this Policy, the primary activity of a venue must be either for:
 - a. the sale of alcohol or, the sale of alcohol and food where the venue is subject to an on licence (but not being a bring-your-own licence) or club licence; or
 - b. the conducting of race and sports betting in standalone, alcohol free New Zealand Racing Board venues under the Racing Act, 2003 subject to compliance with s 33(3) of the Gambling Act 2003.
4. The Council will not grant venue consent for the establishment of any new venues. This also means The Council will not grant venue consent for the relocation of an existing venue.

Monitoring and implementation

5. The implementation of this policy will be monitored by the General Manager City Growth.
6. The policy will be reviewed in response to any issues that may arise, every three years as required under the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

FEEDBACK FORM



PROPOSED draft Class 4 Gambling Venue Policy

Hamilton City Council is proposing to adopt the draft Class 4 Gambling Venue Policy. Tell us what you think.

1. Is the approach in the policy that the Council will take to grant new venue consents clear? (Please explain why/why not below).

Yes

No

(Please print clearly) _____

2. Is the approach in the policy the Council will take to grant new venue consents:

Appropriate

Too restrictive

(Please explain clearly why/why not) _____

3. Are you responding as/or representing (tick all that apply)?

- A Class 4 Operator / Venue
- An Incorporated Society or Charitable Trust
- A Social Service Provider
- Other: _____

4. Can you tell us your age group?

- 16-24
- 25-35
- 36-50
- 51-64
- 65+

5. Please provide your contact details (* required fields)

Title: Mr / Mrs / Miss / Ms / Dr

* Name: _____

Organisation (where applicable): _____

Postal Address: _____

_____ Post code: _____

* Phone: (day) _____ (evening) _____

* Email: _____

6. Do you wish to be heard in support of your submission or feedback in April 2018? (This means you will present a summary of your feedback in person to elected representatives)

- No
- Yes

Please complete the contact details section above, and contact Raewyn;
P: 07 8386537 or E: haveyoursay@hcc.govt.nz to confirm your presentation time.

Note: all feedback/submissions will be treated as public documents, and they may be loaded on to the Council's website with the names and contact details of submitters included.

Please get your feedback to us by the 5 March 2018.

You can:

- Complete it online at haveyoursay.hamilton.govt.nz
- Post the form to Freepost 172189, Strategy Unit, Hamilton City Council, Private Bag 3010, Hamilton 3240
- Drop it off to the Hamilton City Council Office in Garden Place, any Hamilton City Library.

Council Report

Item 9

Committee: Council **Date:** 16 November 2017
Author: Phil Saunders **Authoriser:** Kelvyn Eglinton
Position: Principal Building Advisor **Position:** General Manager City Growth
Report Name: Dangerous and Insanitary Buildings Policy

Report Status	<i>Open</i>
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Purpose

1. To seek approval for public consultation on a draft Dangerous and Insanitary Buildings Policy between 5 February 2018 to 5 March 2018.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) approves the attached Draft Dangerous and Insanitary Buildings Policy and Statement of Proposal for public consultation between 5 February 2018 to 5 March 2018.

Executive Summary

3. The Council has an existing Earthquake-Prone, Dangerous and Insanitary Buildings Policy (**existing policy**) as previously required under the Building Act 2004 (**Act**).
4. The **Act** was amended changing the requirements around references to Earthquake-Prone buildings that a Council policy must include. The requirements around Earthquake-Prone buildings are now included in the **Act**.
5. The effect of the amendment to the **Act** means that the Council is required to have a policy for dangerous and insanitary buildings only (s131, the **Act**).
6. Some clauses in the Council's **existing policy** are no longer relevant and the most efficient approach to developing a policy for dangerous and insanitary buildings is to revise the **existing policy** to reflect the changes to the legislation.
7. Council's existing policy will become The Dangerous and Insanitary Buildings Policy (**new policy**) upon approval.
8. The **new policy** will simply outline the specific methodology the Council will take to identify and deal with dangerous and insanitary buildings.
9. The **new policy** must be consulted on using the Special Consultative Procedure under s83 of the Local Government Act 2002 (**LGA**) before being adopted (s132, the **Act**).

Background and Discussion

10. After the Canterbury earthquakes the central government established a Royal Commission who made a number of recommendations to select committee for changes to the current legislation covering Earthquake-Prone buildings.
11. The primary aim of the recommendations was to reduce the risk to people in earthquake events by ensuring existing Earthquake-Prone buildings over time are made more resilient and do not sustain damage and collapse in a manner that threatens human life.
12. Following these recommendations, central government introduced changes to cover Earthquake-Prone buildings on 1 July 2017 by way of the Building (Earthquake-Prone Buildings) Amendment Act 2016 which amended the **Act**.
13. The effect of the amendment means that:
 - The requirements around Earthquake-Prone buildings are now included in the **Act** and therefore do not require inclusion in a Council policy.
 - The Council is required to have a policy for dangerous and insanitary buildings only (s131, the **Act**).
 - The Council's existing Earthquake-Prone, Dangerous and Insanitary Buildings Policy will become the Dangerous and Insanitary Buildings Policy upon its adoption.
14. If the policy is not adopted by 1 January 2019 the Council would not meet its legal requirements under the **Act** (s121, the **Act**).
15. Staff have utilised the review process to make the **existing policy** simpler for the Council, community and staff to understand the methodology the Council will take to identify and deal with dangerous and insanitary buildings.
16. The **new policy** must be adopted within 18 months of the **Act** being amended (1 July 2017) and therefore the **new policy** must be adopted before 1 January 2019 (s121, the **Act**).

Financial Considerations

17. The approximate cost for the **new policy** development process up to the point of this Council report is \$3,000. This cost includes staff time which is regular operating activity funded through the 10 year plan. If the Council resolves to approve the **new policy** for consultation, the costs leading up to and including adoption and implementation are estimated at an additional \$3,000 to \$5,000 depending on submissions received. In total the costs to develop, adopt and implement the **new policy** is approximately \$6,000 to \$8,000.

Risks

18. The Council would not meet its legal obligations if it did not adopt a Dangerous and Insanitary Buildings policy.

Significance and Engagement

16. Given the statutory requirement to consult using the special consultative procedure under s83 of the **LGA**, staff have not considered the key considerations under the Significance and Engagement Policy to assess the recommendation in this report.
17. Under Section 83 of the **LGA**, a minimum consultation period of one month, a Statement of Proposal (**SOP**) and the opportunity for submitters to present their views in a spoken form to the Council is required.

18. The proposed consultation process will be an online public consultation on Council's "Have your say" website for 1 month (between 5 February 2018 to 5 March 2018) followed by an opportunity for submitters to present their views in a spoken form in April 2018.
19. The proposed **SOP** which includes the draft policy is attached to this report, complies with s83 of the **LGA** and considers guidance material supplied by the Ministry of Business, Innovation and Employment (MBIE).
20. All submissions received from the consultation will be presented in a deliberations report to the Council in May 2018.

Attachments

Attachment 1 - Statement of Proposal - Proposed Dangerous and Insanitary Buildings

Attachment 2 - Draft Policy - Dangerous and Insanitary Buildings - Clean Copy

Attachment 3 - Draft Policy - Proposed Dangerous and Insanitary Building Policy - Tracked Changed Copy .



STATEMENT OF PROPOSAL

Proposed Dangerous and Insanitary Buildings Policy

WHAT'S BEING PROPOSED

Hamilton City Council (the Council) is seeking feedback on the proposed new policy for Dangerous and Insanitary Buildings.

The proposed policy sets out the approach the Council will take to identify and deal with dangerous and insanitary buildings.

BACKGROUND

On 1 July 2017 the Building Act 2004 was updated to incorporate changes as a result of the Building (Earthquake-prone Buildings) Amendment Act 2016. Section 131 of the new Act requires that a Territorial authority must adopt policy on dangerous and insanitary buildings. This must be completed within 18 months of the commencement of Section 131.

QUICK FACTS

What is the main purpose of the policy?

The Council is required by legislation to create a policy. The policy is focused on ensuring people can live and work in buildings without compromising their health or safety.

How does the policy work?

The policy outlines the process that the Council will follow in relation to any dangerous or insanitary building that comes to the Council's attention.

What buildings does the policy apply to?

The policy applies to any building where the current conditions mean the building could be dangerous or insanitary.

Who manages the policy?

Hamilton City Council is the Territorial Authority responsible for managing the policy through the Building Act 2004.

Is the policy required to be reviewed?

The Council must review the policy no later than five (5) years after its adoption as required under the Act

Are heritage buildings included in the policy?

Yes, heritage buildings will be assessed in the same way as other dangerous and insanitary buildings.

Is there a process to record and access information on a building's dangerous or insanitary status under the policy?

Yes, the Council keep a record of all dangerous and insanitary buildings on the property file which building owners will be able to access.

OPTIONS

Option A: Adopt the draft Dangerous and Insanitary Buildings Policy

This option involves Council adopting the proposed Dangerous and Insanitary Buildings Policy. This option complies with the legislative requirements under the Building Act 2004 that requires Council to adopt a policy on dangerous and insanitary buildings.

Option B: Do not adopt the proposed Dangerous and Insanitary Buildings Policy

This option involves Council not adopting the proposed Dangerous and Insanitary Buildings Policy. By not having this policy it means the Council won't be meeting its legal obligations set out in the Building Act 2004.

TELL US YOUR THOUGHTS ON THE POLICY

Before making any final decisions, we'd like to have your input.

You can give us feedback from **5 February 2018 to 5 March 2018**.

How to give feedback

There are a number of ways you can give your feedback:

- Fill out a feedback form online at haveyoursay.hamilton.govt.nz
- Fill out the feedback form included in this Statement of Proposal and send to Hamilton City Council, Strategy Unit, Private Bag 3010, Hamilton 3240.
- Fill out the feedback form and deliver it to the Municipal Building Reception Lounge or one of Council's libraries.

Feedback forms and the proposed policy are on our website and available from Council libraries and the ground floor reception of Council's Municipal Building in Garden Place.

For any queries please ring 07 838 6699.

First adopted:	May 2018
Revision dates/version:	Version 1
Next review date:	May 2023
Engagement required:	The Special Consultative Procedure is required
Document Number	
Associated documents:	
Sponsor/Group:	General Manager – City Growth

Draft Dangerous and Insanitary Buildings Policy

Purpose and scope

1. To outline the approach the Council will take and clarify the Council's priorities in performing its functions under the Building Act 2004.

Principles

2. The Council will seek immediate or early resolution of any defect to minimize potential risk to public health or safety.
3. The Policy recognises the importance of Hamilton's heritage buildings and will protect the heritage value of these buildings wherever possible, without compromising public health and safety.
4. The Council will work pro-actively with building owners to ensure the best outcome for all parties.

Definitions

Term	Means
Affected Building	Defined in s121A of the Act; A building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby: (a) a dangerous building as defined in Section 121; or (b) a dangerous dam within the meaning of Section 153.
Building Owner	Defined in s7 of the Act; Owner in relation to any land or buildings on the land, (a) means the person who – (i) is entitled to the rack rent from the land; or (ii) would be so entitled if the land were let to a tenant at a rack rent; and (b) includes – (i) the owner of the fee simple of the land; and (ii) for the purposes of sections 32, 44, 92, 97, and 176(c), any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force.
Dangerous Building	Defined in s121 of the Act; (1) A building is dangerous for the purposes of this Act if: (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause— (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or

	<p>(ii) damage to other property; or</p> <p>(b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.</p> <p>(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority:</p> <p>(a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and</p> <p>(b) if the advice is sought, must have due regard to the advice.</p>
Heritage Building	<p>Defined in s7 of the Act;</p> <p>Means a building that is included on :</p> <p>(a) the New Zealand Heritage List/Rarangi Korero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or</p> <p>(b) the National Historic Landmarks/Ngaa Manawhenua o Aotearoa me onaa Korero Tuturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>
Immediate danger	<p>Defined in s129 of the Act;</p> <p>(1) This section applies if, because of the state of the building;</p> <p>(a) immediate danger to the safety of people is likely in terms of section 121 or 123; or</p> <p>(b) immediate action is necessary to fix insanitary conditions.</p>
Insanitary Building	<p>Defined in s123 of the Act;</p> <p>A building is insanitary for the purposes of this Act if the building:</p> <p>(a) is offensive or likely to be injurious to health because:</p> <p>(i) of how it is situated or constructed; or</p> <p>(ii) it is in a state of disrepair; or</p> <p>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</p> <p>(c) does not have a supply of potable water that is adequate for its intended use; or</p> <p>(d) does not have sanitary facilities that are adequate for its intended use.</p>
Property file and register	A record of legal information the Council is required to maintain in terms of 216 of the Act
Structural condition	The structural condition of the building at the time the Council carries out an inspection of the building to ascertain its state.
Territorial Authority	<p>Defined in s7 of the Act;</p> <p>(a) means a City Council or District Council named as Part 2 of Schedule 2 of the local Government Act 2002; and</p> <p>(i) in relation to land within the district of the territorial authority, or a building on or proposed to be built on such land, means that territorial authority; and</p> <p>(II) in relation to any part of a coastal marine area (within the meaning of the resource management Act 1991) that is not within the district of the territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district is adjacent to that part; and</p> <p>(b) includes the Minister of Conservation or the Minister of Local Government, as the case may be, in any case in which the Minister of Conservation or the Minister of Local Government is the territorial authority under section 22 of the Local Government Act 2002.</p>
The Act	The Building Act 2004
The Council	The Hamilton City Council

Policy

Identifying dangerous and insanitary buildings

5. The Council will respond to building complaints received from the public, the Fire Service, or any person or organisation that has a health and safety interest in a particular building and investigate the complaint and assess the condition of the building.
6. The assessment of dangerous buildings will be in accordance with Section 121 of the Act.
7. The assessment of insanitary buildings will be in accordance with Section 123 of the Act.

Actions for dangerous and insanitary buildings

8. Priority for action will be decided after investigation of complaints.
9. The Council will liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service of a dangerous building.
10. The Council may also engage a subject matter expert to assist with determining the course of action.
11. The Council may use the powers given in Section 124 of the Act to take action regarding dangerous or insanitary buildings to serve formal notice in accordance with the Act and consider if it should erect a hoarding, fence or warning sign.
12. On being advised of conditions that are alleged to be insanitary within the provisions of Section 123 of the Act, the buildings will be inspected and a determination made whether action in terms of Sections 124 or 129 of the Act will be taken.
13. Where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions. The Council may use the powers given in Section 129 of the Act.

Working with building owners

14. Where there is an agreement between the Council and the building owner to rectify any deficiency, the Council may elect to forego the issue of a formal notice, but will retain details of the building in the property file and register.
15. Where an acceptable agreement between the building owner and the Council cannot be obtained, the Council will exercise its powers and issue a notice under Section 124 of the Act. The Section 124 notice will outline the danger to be removed and a timeframe to achieve the necessary result.
16. In urgent cases the Council may at the outset serve formal notice under Section 124 of the Act.

Recording a building's dangerous or insanitary status

17. The Council will keep a record of all dangerous and insanitary buildings noting the status of requirements for improvement or the results of improvements as applicable.
18. In addition, the Council will keep and record the following information that may be placed on the Land Information Memoranda (LIM) for each dangerous or insanitary building:
 - a. A statement that the building is considered to be dangerous or insanitary.
 - b. The date by which rectification of any deficiency, or demolition is required (only if known).
 - c. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record may also be included.
 - d. A statement that further details may be available from Council's property file.

Access to information

19. Information concerning the dangerous or insanitary status of a building (if known) will be contained in the property file.
20. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record of that will also be available on the relevant property file.
21. Access to information may be available through a LIM application or request for information in terms of the Official Information and Meetings Act 2002.
22. Building owners will be able to access information from the Council relating to their building during normal office hours.

Heritage buildings

23. Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings.
24. The Council will work with the building owner to ensure the development of appropriate management and planning for these buildings for their protection wherever possible. This will be achieved by:
 - a. Recognising the heritage buildings that exist in the city, including the Heritage New Zealand Register, the Heritage Items Schedule of the Hamilton City District Plan, listed heritage places, and buildings of significance to iwi, and other buildings of significance to the community, for example:
 - b. Any listed in a strategy or management plan prepared under the Conservation Act 1987 or Reserves Act 1977
 - c. Any within a reserve identified by the Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes;
 - d. Any listed in an iwi management plan;
 - e. Buildings or structures associated with historic cemeteries or memorials;
 - f. Any building managed for heritage purposes by agencies, such as Heritage New Zealand, Department of Conservation or by Council; and
 - g. Buildings or structures subject to heritage order, heritage covenant or other protective covenant.
 - h. Informing relevant statutory organisations, including Heritage New Zealand, with regards to any listed building identified as dangerous or insanitary.
 - i. Ensuring the consideration of any advice from Heritage New Zealand or professional conservation organisation, heritage professional, including the Council's own heritage advisers (if relevant).
 - j. Considering any relevant conservation report, conservation plan, condition report, management plan, heritage assessment or other document.
 - k. Any statutory protection, including any listing in the Heritage Items.
 - l. For any notice issued in relation to a heritage building under Section 124 of the Act, the Council will provide a copy of the notice to Heritage New Zealand.

Monitoring and implementation

25. The implementation of this policy will be monitored by the General Manager City Growth.
26. The policy will be reviewed in response to any issues that may arise, every five years as required under section 132 of the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

FEEDBACK FORM



PROPOSED Dangerous and Insanitary Buildings Policy

Hamilton City Council is proposing to adopt a Dangerous and Insanitary Buildings Policy. Tell us what you think.

1. Is the approach in the policy to identify dangerous and insanitary buildings clear? (Please explain why/why not below).

Yes

No

(Please print clearly) _____

2. Is the approach in the policy the Council will take in dealing with dangerous and insanitary Buildings clear? (Please explain why/why not below).

Yes

No

(Please print clearly) _____



3. Are you responding as/or representing (tick all that apply)?

- A building owner
- A building tenant
- A business
- Other stakeholder interest: _____

4. Can you tell us your age group?

- 16-24
- 25-35
- 36-50
- 51-64
- 65+

5. Please provide your contact details (* required fields)

Title: Mr / Mrs / Miss / Ms / Dr

* Name: _____

Organisation (where applicable): _____

Postal Address: _____

_____ Post code: _____

* Phone: (day) _____ (evening) _____

* Email: _____

6. Do you wish to be heard in support of your submission or feedback in April 2018? (This means you will present a summary of your feedback in person to elected representatives)

- No
- Yes

Please complete the contact details section above, and contact Raewyn;
P: 07 8386537 or E: haveyoursay@hcc.govt.nz to confirm your presentation time.

Note: all feedback/submissions will be treated as public documents, and they may be loaded on to the Council's website with the names and contact details of submitters included.

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<i>First adopted:</i>	May 2018
<i>Revision dates/version:</i>	Version 1
<i>Next review date:</i>	May 2023
<i>Engagement required:</i>	The Special Consultative Procedure is required
<i>Document number:</i>	
<i>Associated documents:</i>	
<i>Sponsor/Group:</i>	City Growth

Draft Dangerous and Insanitary Buildings Policy

Purpose and scope

1. To outline the approach the Council will take and clarify the Council's priorities in performing its functions under the Building Act 2004.

Principles

2. The Council will seek immediate or early resolution of any defect to minimize potential risk to public health or safety.
3. The Policy recognises the importance of Hamilton's heritage buildings and will protect the heritage value of these buildings wherever possible, without compromising public health and safety.
4. The Council will work pro-actively with building owners to ensure the best outcome for all parties.

Definitions

Term	Means
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Building Owner	Defined in s7 of the Act; Owner in relation to any land or buildings on the land, (a) means the person who – (i) is entitled to the rack rent from the land; or (ii) would be so entitled if the land were let to a tenant at a rack rent; and (b) includes – (i) the owner of the fee simple of the land; and (ii) for the purposes of sections 32, 44, 92, 97, and 176(c), any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force.
Dangerous Building	Defined in s121 of the Act; (1) A building is dangerous for the purposes of this Act if: (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause— (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or (ii) damage to other property; or (b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.

	<p>(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority:</p> <p>(a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and</p> <p>(b) if the advice is sought, must have due regard to the advice.</p>
Heritage Building	<p>Defined in s7 of the Act; Means a building that is included on :</p> <p>(a) the New Zealand Heritage List/Rarangi Korero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or</p> <p>(b) the National Historic Landmarks/Ngaa Manawhenua o Aotearoa me onaa Korero Tuturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>
Immediate danger	<p>Defined in s129 of the Act;</p> <p>(1) This section applies if, because of the state of the building;</p> <p>(a) immediate danger to the safety of people is likely in terms of section 121 or 123; or</p> <p>(b) immediate action is necessary to fix insanitary conditions.</p>
Insanitary Building	<p>Defined in s123 of the Act;</p> <p>A building is insanitary for the purposes of this Act if the building:</p> <p>(a) is offensive or likely to be injurious to health because:</p> <p>(i) of how it is situated or constructed; or</p> <p>(ii) it is in a state of disrepair; or</p> <p>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</p> <p>(c) does not have a supply of potable water that is adequate for its intended use; or</p> <p>(d) does not have sanitary facilities that are adequate for its intended use.</p>
Property file and register	A record of legal information the Council is required to maintain in terms of 216 of the Act
Structural condition	The structural condition of the building at the time the Council carries out an inspection of the building to ascertain its state.
Territorial Authority	<p>Defined in s7 of the Act;</p> <p>(a) means a City Council or District Council named as Part 2 of Schedule 2 of the local Government Act 2002; and</p> <p>(i) in relation to land within the district of the territorial authority, or a building on or proposed to be built on such land, means that territorial authority; and</p> <p>(II) in relation to any part of a coastal marine area (within the meaning of the resource management Act 1991) that is not within the district of the territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district is adjacent to that part; and</p> <p>(b) includes the Minister of Conservation or the Minister of Local Government, as the case may be, in any case in which the Minister of Conservation or the Minister of Local Government is the territorial authority under section 22 of the Local Government Act 2002.</p>
The Act	The Building Act 2004
The Council	The Hamilton City Council

Policy

Identifying dangerous and insanitary buildings

5. The Council will respond to building complaints received from the public, the Fire Service, or any person or organisation that has a health and safety interest in a particular building and investigate the complaint and assess the condition of the building.
6. The assessment of dangerous buildings will be in accordance with Section 121 of the Act.
7. The assessment of insanitary buildings will be in accordance with Section 123 of the Act.

Actions for dangerous and insanitary buildings

8. Priority for action will be decided after investigation of complaints.
9. The Council will liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service of a dangerous building.
10. The Council may also engage a subject matter expert to assist with determining the course of action.
11. The Council may use the powers given in Section 124 of the Act to take action regarding dangerous or insanitary buildings to serve formal notice in accordance with the Act and consider if it should erect a hoarding, fence or warning sign.
12. On being advised of conditions that are alleged to be insanitary within the provisions of Section 123 of the Act, the buildings will be inspected and a determination made whether action in terms of Sections 124 or 129 of the Act will be taken.
13. Where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions. The Council may use the powers given in Section 129 of the Act.

Working with building owners

14. Where there is an agreement between the Council and the building owner to rectify any deficiency, the Council may elect to forego the issue of a formal notice, but will retain details of the building in the property file and register.
15. Where an acceptable agreement between the building owner and the Council cannot be obtained, the Council will exercise its powers and issue a notice under Section 124 of the Act. The Section 124 notice will outline the danger to be removed and a timeframe to achieve the necessary result.
16. In urgent cases the Council may at the outset serve formal notice under Section 124 of the Act.

Recording a building's dangerous or insanitary status

17. The Council will keep a record of all dangerous and insanitary buildings noting the status of requirements for improvement or the results of improvements as applicable.
18. In addition, the Council will keep and record the following information that may be placed on the Land Information Memoranda (LIM) for each dangerous or insanitary building:
 - a. A statement that the building is considered to be dangerous or insanitary.
 - b. The date by which rectification of any deficiency, or demolition is required (only if known).
 - c. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record may also be included.
 - d. A statement that further details may be available from Council's property file.

Access to information

19. Information concerning the dangerous or insanitary status of a building (if known) will be contained in the property file.
20. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record of that will also be available on the relevant property file.
21. Access to information may be available through a LIM application or request for information in terms of the Official Information and Meetings Act 2002.
22. Building owners will be able to access information from the Council relating to their building during normal office hours.

Heritage buildings

23. Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings.
24. The Council will work with the building owner to ensure the development of appropriate management and planning for these buildings for their protection wherever possible. This will be achieved by:
 - a. Recognising the heritage buildings that exist in the city, including the Heritage New Zealand Register, the Heritage Items Schedule of the Hamilton City District Plan, listed heritage places, and buildings of significance to iwi, and other buildings of significance to the community, for example:
 - b. Any listed in a strategy or management plan prepared under the Conservation Act 1987 or Reserves Act 1977
 - c. Any within a reserve identified by the Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes;
 - d. Any listed in an iwi management plan;
 - e. Buildings or structures associated with historic cemeteries or memorials;
 - f. Any building managed for heritage purposes by agencies, such as Heritage New Zealand, Department of Conservation or by Council; and
 - g. Buildings or structures subject to heritage order, heritage covenant or other protective covenant.
 - h. Informing relevant statutory organisations, including Heritage New Zealand, with regards to any listed building identified as dangerous or insanitary.
 - i. Ensuring the consideration of any advice from Heritage New Zealand or professional conservation organisation, heritage professional, including the Council's own heritage advisers (if relevant).
 - j. Considering any relevant conservation report, conservation plan, condition report, management plan, heritage assessment or other document.
 - k. Any statutory protection, including any listing in the Heritage Items.
 - l. For any notice issued in relation to a heritage building under Section 124 of the Act, the Council will provide a copy of the notice to Heritage New Zealand.

Monitoring and implementation

25. The implementation of this policy will be monitored by the General Manager City Growth.
26. The policy will be reviewed in response to any issues that may arise, every five years as required under section 132 of the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

First adopted:	May 2018
Revision dates/version:	Version 1
Next review date:	May 2023
Engagement required:	The Special Consultative Procedure is required
Document number:	
Associated documents:	
Sponsor/Group:	City Growth

Draft Dangerous and Insanitary Buildings Policy **~~Earthquake-Prone Dangerous and Insanitary Buildings Policy~~**

Purpose and scope

- To outline the approach the Council will take and clarify the Council's priorities in performing its functions under the Building Act 2004.

Principles

- The Council will seek immediate or early resolution of any defect to minimize potential risk to public health or safety.
- The Policy recognises the importance of Hamilton's heritage buildings and will protect the heritage value of these buildings wherever possible, without compromising public health and safety.
- The Council will work pro-actively with building owners to ensure the best outcome for all parties.

Definitions

Term	Means
<u>Affected Building</u>	Defined in s121A of the Act; A building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby: <u>(a) a dangerous building as defined in Section 121; or</u> <u>(b) a dangerous dam within the meaning of Section 153.</u>
<u>Building Owner</u>	Defined in s7 of the Act; Owner in relation to any land or buildings on the land, <u>(a) means the person who—</u> <u>(i) is entitled to the rack rent from the land; or</u> <u>(ii) would be so entitled if the land were let to a tenant at a rack rent; and</u> <u>(b) includes —</u> <u>(i) the owner of the fee simple of the land; and</u> <u>(ii) for the purposes of sections 32, 44, 92, 97, and 176(c), any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force.</u>
<u>Dangerous Building</u>	Defined in s121 of the Act; <u>(1) A building is dangerous for the purposes of this Act if:</u> <u>(a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—</u> <u>(i) injury or death (whether by collapse or otherwise) to any persons in it</u>

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	<p>or to persons on other property; or</p> <p>(ii) damage to other property; or</p> <p>(b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.</p> <p>(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority:</p> <p>(a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and</p> <p>(b) if the advice is sought, must have due regard to the advice.</p>
<u>Heritage Building</u>	<p>Defined in s7 of the Act;</p> <p>Means a building that is included on :</p> <p>(a) the New Zealand Heritage List/Rarangi Korero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or</p> <p>(b) the National Historic Landmarks/Ngaā Manawhenua o Aotearoa me onaa Korero Tuturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>
<u>Immediate danger</u>	<p>Defined in s129 of the Act;</p> <p>(1) This section applies if, because of the state of the building:</p> <p>(a) immediate danger to the safety of people is likely in terms of section 121 or 123; or</p> <p>(b) immediate action is necessary to fix insanitary conditions.</p>
<u>Insanitary Building</u>	<p>Defined in s123 of the Act;</p> <p>A building is insanitary for the purposes of this Act if the building:</p> <p>(a) is offensive or likely to be injurious to health because:</p> <p>(i) of how it is situated or constructed; or</p> <p>(ii) it is in a state of disrepair; or</p> <p>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</p> <p>(c) does not have a supply of potable water that is adequate for its intended use; or</p> <p>(d) does not have sanitary facilities that are adequate for its intended use.</p>
<u>Property file and register</u>	A record of legal information the Council is required to maintain in terms of 216 of the Act
<u>Structural condition</u>	The structural condition of the building at the time the Council carries out an inspection of the building to ascertain its state.
<u>Territorial Authority</u>	<p>Defined in s7 of the Act;</p> <p>(a) means a City Council or District Council named as Part 2 of Schedule 2 of the local Government Act 2002; and</p> <p>(i) in relation to land within the district of the territorial authority, or a building on or proposed to be built on such land, means that territorial authority; and</p> <p>(ii) in relation to any part of a coastal marine area (within the meaning of the resource management Act 1991) that is not within the district of the territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district is adjacent to that part; and</p> <p>(b) includes the Minister of Conservation or the Minister of Local Government, as the case may be, in any case in which the Minister of Conservation or the Minister of Local Government is the territorial authority under section 22 of the Local Government Act 2002.</p>
<u>The Act</u>	The Building Act 2004

The Council	The Hamilton City Council
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~~1. To ensure that this Policy meets the requirements and intent of the Building Act 2004 and contributes to ensuring that buildings in Hamilton City do not compromise people's health and safety in the event of an earthquake and/or through dangerous or insanitary conditions. The Policy aims to balance potential health and safety benefits with any economic costs.~~

Policy

Identifying dangerous and insanitary buildings

- ~~5. The Council will respond to building complaints received from the public, the Fire Service, or any person or organisation that has a health and safety interest in a particular building and investigate the complaint and assess the condition of the building.~~
- ~~6. The assessment of dangerous buildings will be in accordance with Section 121 of the Act.~~
- ~~7. The assessment of insanitary buildings will be in accordance with Section 123 of the Act.~~

Actions for dangerous and insanitary buildings

- ~~8. Priority for action will be decided after investigation of complaints.~~
- ~~9. The Council will liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service of a dangerous building.~~
- ~~10. The Council may also engage a subject matter expert to assist with determining the course of action.~~
- ~~11. The Council may use the powers given in Section 124 of the Act to take action regarding dangerous or insanitary buildings to serve formal notice in accordance with the Act and consider if it should erect a hoarding, fence or warning sign.~~
- ~~12. On being advised of conditions that are alleged to be insanitary within the provisions of Section 123 of the Act, the buildings will be inspected and a determination made whether action in terms of Sections 124 or 129 of the Act will be taken.~~
- ~~13. Where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions. The Council may use the powers given in Section 129 of the Act.~~

Working with building owners

- ~~14. Where there is an agreement between the Council and the building owner to rectify any deficiency, the Council may elect to forego the issue of a formal notice, but will retain details of the building in the property file and register.~~
- ~~15. Where an acceptable agreement between the building owner and the Council cannot be obtained, the Council will exercise its powers and issue a notice under Section 124 of the Act. The Section 124 notice will outline the danger to be removed and a timeframe to achieve the necessary result.~~
- ~~16. In urgent cases the Council may at the outset serve formal notice under Section 124 of the Act.~~

Recording a building's dangerous or insanitary status

17. The Council will keep a record of all dangerous and insanitary buildings noting the status of requirements for improvement or the results of improvements as applicable.

18. In addition, the Council will keep and record the following information that may be placed on the Land Information Memoranda (LIM) for each dangerous or insanitary building:

- a. A statement that the building is considered to be dangerous or insanitary.
- b. The date by which rectification of any deficiency, or demolition is required (only if known).
- c. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record may also be included.
- d. A statement that further details may be available from Council's property file.

Access to information

19. Information concerning the dangerous or insanitary status of a building (if known) will be contained in the property file.

20. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record of that will also be available on the relevant property file.

21. Access to information may be available through a LIM application or request for information in terms of the Official Information and Meetings Act 2002.

22. Building owners will be able to access information from the Council relating to their building during normal office hours.

Heritage buildings

23. Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings.

24. The Council will work with the building owner to ensure the development of appropriate management and planning for these buildings for their protection wherever possible. This will be achieved by:

- a. Recognising the heritage buildings that exist in the city, including the Heritage New Zealand Register, the Heritage Items Schedule of the Hamilton City District Plan, listed heritage places, and buildings of significance to iwi, and other buildings of significance to the community, for example:
- b. Any listed in a strategy or management plan prepared under the Conservation Act 1987 or Reserves Act 1977
- c. Any within a reserve identified by the Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes;
- d. Any listed in an iwi management plan;
- e. Buildings or structures associated with historic cemeteries or memorials;
- f. Any building managed for heritage purposes by agencies, such as Heritage New Zealand, Department of Conservation or by Council; and
- g. Buildings or structures subject to heritage order, heritage covenant or other protective covenant.
- h. Informing relevant statutory organisations, including Heritage New Zealand, with regards to any listed building identified as dangerous or insanitary.
- i. Ensuring the consideration of any advice from Heritage New Zealand or professional conservation organisation, heritage professional, including the Council's own heritage advisers (if relevant).

j. Considering any relevant conservation report, conservation plan, condition report, management plan, heritage assessment or other document.

k. Any statutory protection, including any listing in the Heritage Items.

l. For any notice issued in relation to a heritage building under Section 124 of the Act, the Council will provide a copy of the notice to Heritage New Zealand.

Monitoring and implementation

~~2.25.~~ The implementation of this policy will be monitored by the General Manager City Growth.

~~2.26.~~ The policy will be reviewed in response to any issues that may arise, every five years as required under section 132 of the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

~~Section 131 of the Building Act 2004 (the Act) requires all territorial authorities to adopt a policy on earthquake-prone, dangerous and insanitary buildings by 31 May 2006. The definition of an earthquake-prone building is set out in Section 122 of the Act and in the related Building Regulation SR 2005/32 that defines a "moderate earthquake". This definition is significantly more extensive and requires a higher level of structural performance than that required under the previous Building Act 1991. It now includes all buildings and not just those constructed of un-reinforced masonry or un-reinforced concrete. Ultimately, the new requirements will impact on and include a greater number of buildings than the 1991 Act.~~

~~Section 121 of the Act defines a dangerous building and Section 123 defines an insanitary building. The definitions of earthquake-prone, dangerous and insanitary buildings, as provided in the Act and Building Regulation SR 2005/32, are attached as Appendix One. In accordance with the requirements of the Building Act 2004, this Policy states:~~

~~The approach Council will take in performing its functions under the Building Act 2004, Council's priorities in performing those functions.~~

~~How the Policy will apply to heritage buildings.~~

~~In developing and adopting this Policy, Council has used the special consultative procedure set out in Section 83 of the Local Government Act 2002.~~

~~In constructing this Policy, Council has made use of the Department of Building and Housing's (DBH) guidance document, the Building Act 2004, relevant New Zealand Standards and related documents.~~

~~Background~~

~~Hamilton's seismic risk~~

~~Hamilton's geographical positioning does not expose it to the likelihood of a major earthquake. The city's primary risk of a major disaster is from ash fallout from a volcanic eruption. That is not to say that Hamilton is without risk, but that the risk is lower in terms of comparison with many other areas in New Zealand.~~

~~Hamilton lies in a low to moderate seismic zone and historically there have been few seismic events affecting Hamilton City. The low frequency of earthquake events that have caused damage in the city can be related to the absence of active faulting in the city's vicinity.~~

~~Despite Hamilton City not being located on an active faultline, earthquake events that affect the city may also be caused from faults located within the Waikato Region and throughout New Zealand.¹~~

~~The risk of a damaging earthquake affecting Hamilton is lower than in a number of other major centres in New Zealand. However, the requirement to have an earthquake-prone~~

¹ Blackstock, Hugh (2002) *Hazard Mapping in Hamilton City, New Zealand*, University of Waikato, Hamilton.

buildings policy in place will assist in minimising risk from an earthquake in a way that balances any potential health and safety benefits with economic costs associated with implementing this policy.

Hamilton's building stock

Generally, Hamilton's buildings are of a good standard. The city's buildings comprise a range of structures reflecting the development of a growing regional centre over more than 100 years. Buildings of a commercial and industrial nature are mainly structures post 1900, ranging from un-reinforced masonry through to reinforced concrete. The majority of buildings of un-reinforced masonry have been strengthened to approximately 50 percent of New Zealand Standard 4203 through redevelopment and refurbishment during the 1990s. Hamilton does not have a large number of high-rise buildings and most are reinforced concrete of a good standard. Other buildings of any significant height and groupings occur in isolation at some distance from the central city.

Policy approach

Policy principles

This Policy deals with earthquake-prone buildings and also dangerous and insanitary buildings. The Building Act 2004 expresses the government's policy objective for New Zealand's buildings. One of the key purposes of the Act is to ensure that people who use buildings can do so safely and without endangering their health.

Earthquake-prone, dangerous and insanitary buildings policies must be developed by each individual territorial authority, and this Policy responds in a manner best suited for Hamilton's local economic, social and seismic conditions.

Overall approach

Council is determined to ensure that Hamilton City is a healthy and safe place to live. For earthquake-prone buildings, this Policy is founded on a risk management approach, which requires remedial action where risk to public health and safety is highest. The potential economic and social effects of the Policy are then further mitigated by allowing building owners to address any remedial work required over time. This approach was adopted due to Hamilton's low to moderate seismic risk.

The Policy also recognises the importance of Hamilton's heritage buildings to the historical and cultural life of the nation and local community, and the desire to protect the heritage value of these buildings wherever possible, without compromising public health and safety. Council will carry out an initial desktop analysis to identify potential earthquake-prone buildings and will then conduct a number of field evaluations to confirm the accuracy of the desktop analysis. Council will then categorise buildings identified as earthquake-prone based on risk to determine the appropriate course of action.

For dangerous and insanitary buildings, the Policy will use existing powers in the Building Act 2004 and seek immediate or early resolution of any defect. This approach is taken due to the potential risk to public health or safety.

In all cases, Council will work pro-actively with building owners to ensure the best outcome for all parties.

Application of the Policy – earthquake-prone buildings —

The following process provides Council with the ability to take a risk management approach to applying the Policy in relation to earthquake-prone buildings.

Identifying and taking action on earthquake-prone buildings

Council will produce a list of potential earthquake-prone buildings using data from Quotable Value New Zealand and Council's own property information. This list will be based principally on the age of the building and other earthquake engineering factors.

Field evaluations and assessments of available records will be undertaken by staff to further evaluate the accuracy of the list.

Council will then complete a desktop analysis using a risk matrix (Appendix Two) based on the New Zealand Society of Earthquake Engineer's recommendations prepared for the DBH, the fire safety and egress solutions in the Building Code and the policy guidance for territorial authorities produced by the DBH. All buildings on the list will be evaluated against the risk matrix. This evaluation will be completed by 22 December 2006.

Council will then categorise potential earthquake-prone buildings into three categories, based on the potential risk to public safety. All affected building owners will be notified that their building is potentially earthquake-prone by 1 March 2007. This notification will allow a 21-day period in which building owners will have the opportunity to respond to Council and provide appropriate information if they believe that their building should not be classified as earthquake-prone.

CATEGORY 1:

Buildings with a score of more than 60 points against the matrix and identified as having a higher risk in a moderate earthquake.

Requirements for Category 1 buildings:

Council will require owners to undertake an engineering assessment confirming whether or not the building is earthquake-prone. This assessment is to be submitted to Council by 1 March 2009 (two years from initial notification).

If no assessment is submitted to Council, Council staff will contact the owner of the building and seek resolution.

If the assessment is not completed within the specified timeframe or if it deems the building to be earthquake-prone, Council will issue a formal notice under Section 124 of the Building Act 2004 requiring the assessment to be completed or outlining the danger to be removed and a timeframe to achieve the desired result.

The notice will require strengthening to at least 33 percent of the code or better, or demolition by 31 March 2019 (10 years).

CATEGORY 2:

Buildings with a score between 40 and 60 points against the matrix and identified as having a lower risk in a moderate earthquake.

Requirements for Category 2 buildings:

Council will require owners to undertake an engineering assessment confirming whether or not the building is earthquake-prone. This assessment is to be submitted to Council by 1 March 2010 (three years from initial notification).

If no assessment is submitted to Council, Council staff will contact the owner of the building and seek resolution.

If the assessment is not completed within the specified timeframe or if it deems the building to be earthquake-prone, Council will issue a formal notice under Section 124 of the Building Act 2004 requiring the assessment to be completed or outlining the danger to be removed and a timeframe to achieve the desired result.

The notice will require strengthening to at least 33 percent of the code or better, or demolition by 31 March 2030 (20 years).

CATEGORY 3:

Buildings with a score of less than 40 points against the matrix and identified as having a very low risk in a moderate earthquake.

Requirements for Category 3 buildings:

Category 3 buildings will be identified as potentially earthquake-prone on Council records. However, building owners may elect to undertake an engineering assessment to confirm whether or not the building is earthquake-prone.

No notice will be served under Section 124 of the Building Act unless the building changes category under the risk matrix.

Elective strengthening or demolition by the owner (no required timeframe).

Timeframes required for strengthening or demolition commence from the date of issue of formal notice. Appendix Three shows an outline implementation programme for each of the three categories.

In situations where earthquake-prone buildings constitute multiple buildings in a complex, Council will work with the building owner(s) to develop a management plan to achieve the upgrading of the buildings, in which the timeframes for completion of strengthening may differ from the timeframes outlined in Section 4.1 of this Policy. However, public health and safety will remain the priority and higher risk aspects of the buildings will still require strengthening under the timeframes outlined in this Policy.

Dealing with building owners

It is Council's intention to follow a set procedure with all building owners. Notification will initially be given in writing to all owners on Council's list of buildings advising them that their building is potentially earthquake-prone. This notification will allow a 21-day period in which building owners will have the opportunity to respond to Council and provide appropriate information if they believe that their building should not be classified as earthquake-prone.

Where there is a mutual agreement between Council and the building owner and a building consent has been issued to either strengthen or demolish a building, Council may elect to forego the issue of a formal notice, but will retain details of the building in the property file and register.

Where a mutually acceptable agreement between the building owner and Council cannot be obtained, Council will exercise its powers and issue a formal notice under Section 124 of the Building Act 2004. The notice will outline the danger to be removed and a timeframe to achieve the desired result.

Criteria to be used for a full engineering assessment of a building

The definition of an earthquake-prone building is given in Section 122 of the Building Act 2004 and the definition of a moderate earthquake is given in Building Regulation SR 2005/32.

Where an owner is required to assess the earthquake-prone status of a building, the New Zealand Society for Earthquake Engineering (NZSEE) Recommendations are the preferred basis for defining technical requirements and criteria. These recommendations are designed to be used in conjunction with AS/NZS 1170 Loadings Standard, NZS 3101 Concrete Structures Standard, NZS 3404 Steel Structures Standard and other materials Standards.

Interaction between the Policy and related sections of the Building Act 2004 – Section 112: Alterations to existing building and Section 115: Change of Use

Where a building consent is received for any alteration, addition or change of use to a building that is included on the list of potential earthquake-prone buildings, a report from a structural engineer will need to be submitted in support of the application. The report must use the criteria specified in criteria to be used for a full engineering assessment of a building of this Policy (23) and:

identify that the building is of strength greater than 33% of the engineering code and is not considered to be earthquake-prone in terms of the Building Act 2004; or

include calculations and plans detailing how the building will be upgraded to at least 33 percent of the engineering code.
In no circumstances will a building consent for any alteration, addition or change of use be issued for an earthquake-prone building unless Council is satisfied that the building has a strengthening programme in place. In all circumstances Council may elect (if it has not already done so) to serve a formal notice on the building owner in terms of Section 124 of the Act advising the owner that the building must be strengthened to at least 33 percent of the code. The timeframes for strengthening will be the same as those detailed in Section 4.1 of this Policy.

Application of the Policy – dangerous and insanitary buildings

Identifying and taking action on dangerous and insanitary buildings

Council will respond to building complaints received from the public, the Fire Service, or any person or organisation that has a health and safety interest in a particular building. In all instances Council will investigate the complaint and assess the condition of the building. Council will assess dangerous buildings in accordance with Section 121(1) of the Building Act 2004. Insanitary buildings will be assessed in accordance with Section 123 of the Building Act 2004.

Council will take the following action with regard to buildings that are identified as dangerous or insanitary. Priority for action will be decided after investigation of complaints and Fire Service notifications are complete.

Council will liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service of a dangerous building.

Council will use the powers given in Section 124 of the Building Act 2004 to take action regarding dangerous or insanitary buildings to serve formal notice in accordance with the Building Act 2004 and consider if it should erect a hoarding, fence or warning sign.

Where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions, Council will use the powers given in section 129 of the Building Act 2004.

In cases where a building is considered to be dangerous because it is likely to collapse (in whole or in part, due to structural condition) potentially causing injury to occupants or persons in areas or buildings adjacent to the building, Council will require the following steps to be undertaken:

the immediate evacuation of the building

fencing off of the building

shoring up of structures

the preparation and implementation of an immediate action plan to ensure the security of

any vacant building.

On being advised of conditions that are alleged to be insanitary within the provisions of section 123 of the Building Act 2004, the buildings will be inspected and a determination made whether action in terms of Sections 124 or 129 of the Building Act 2004 will be taken.

(Note: Provisions exist in the Health Act 1956 to deal with nuisance conditions related to certain matters associated with housing, under section 29(f) – overcrowding likely to be injurious to health, or Section 42 – because of insanitary conditions likely to cause injury to the health of persons or dwellings unfit for human habitation).

Dealing with building owners

It is Council's intention to follow a set procedure with all building owners. Where there is a mutual agreement between Council and the building owner to rectify any deficiency, Council may elect to forego the issue of a formal notice, but will retain details of the building in the property file and register.

Where a mutually acceptable agreement between the building owner and Council cannot be obtained, Council will exercise its powers and issue a formal notice under Section 124 of the Building Act 2004. The notice will outline the danger to be removed and a timeframe to achieve the desired result. However, in urgent cases Council will at the outset serve formal notice under Section 124 of the Act.

Recording a building's earthquake-prone, dangerous or insanitary status

Council will keep a register of all earthquake-prone, dangerous and insanitary buildings noting the status of requirements for improvement or the results of improvement as applicable. In addition, the following information will be placed on the Land Information Memoranda (LIM) for each earthquake-prone, dangerous or insanitary building:

The address and legal description of the land and building.

A statement that the building is considered to be earthquake-prone, dangerous or insanitary.

The date by which rectification any deficiency, strengthening or demolition is required (only if known).

If a notice under Section 124 is issued in respect of any earthquake-prone, dangerous or insanitary building then a record of that will also be included.

A statement that further details may be available from Council's property file.

Access to information

Information concerning the earthquake-prone, dangerous or insanitary status of a building (if known) will be contained in the property file and in the GIS system (geographic information system). If a notice under Section 124 is issued in respect of any earthquake-prone, dangerous or insanitary building then a record of that will also be available on the relevant property file.

Access to information will be available through a LIM application or request for information in terms of the Official Information and Meetings Act 2002. In general terms, any building owner will be able to access information from Council relating to their building during normal office hours.

Economic impact of the Policy

The Policy advice provided by the Department of Building and Housing makes reference to a 2002 paper – "Strengthening Existing New Zealand Buildings for Earthquake: An analysis of cost/benefit using annual probabilities" – based on a report prepared for the Department of Internal Affairs. The paper describes the analysis of the cost/benefit of improving the performance of existing buildings in an earthquake, using a relatively complex model that relies on a number of key inputs.

Council has reviewed this paper, which includes information relating to Hamilton and other major centres in New Zealand. At this stage the full implications of the paper and other related studies need to be further scoped and researched in more detail, particularly in relation to the relevant sections of the Building Act 2004.

Council recognises that there are likely to be economic costs to some building owners. The full economic impact of the Policy will not be known for a number of years, but will be able to be assessed in more detail as potential earthquake-prone buildings are identified, assessed and remedial action undertaken to gain compliance. Council will continue to research the associated economic impacts and will review this Policy as and when required.

Heritage buildings

Special considerations

Council, in the implementation of procedures under the Building Act 2004 and this Policy with regard to dangerous, earthquake-prone, or insanitary buildings, will take into account

any special traditional and cultural aspects of the intended use of a building and the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value. Although Council does not wish to see the intrinsic heritage value of these buildings adversely affected by structural measures, it is also of the view that it is important that heritage buildings do not pose a risk to public health and safety. Heritage buildings will therefore be assessed in the same way as other potential earthquake-prone, dangerous and insanitary buildings and Council will undertake the development of appropriate management and planning for these buildings to ensure their protection wherever possible. This will be achieved by:

- Recognising the range of heritage buildings that may exist in the city, including the New Zealand Historic Places Trust (NZHPT) Register, the Heritage Items Schedule of the Hamilton City Proposed District Plan November 2001 (References Version), listed heritage places, buildings of significance to iwi, and other buildings of significance to the community, for example:
 - any listed in a strategy or management plan prepared under the Conservation Act 1987 or Reserves Act 1977;
 - any within a reserve identified by the Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes;
 - any listed in an iwi management plan;
 - buildings or structures associated with historic cemeteries or memorials;
 - any buildings managed for heritage purposes by agencies, such as the Historic Places Trust, Department of Conservation or by Council; and
 - buildings or structures subject to heritage order, heritage covenant or other protective covenant.
- Ensuring early identification of heritage buildings at risk.
- Ensuring early consultation with owners of heritage buildings.
- Informing and involving relevant statutory organisations, including the NZHPT, with regard to any historic buildings identified as at risk.
- Considering heritage values when managing any building identified as at risk.
- Considering heritage values when developing upgrading proposals.
- Providing targeted assistance to the owners of heritage buildings.
- In relation to any detailed assessment of buildings at risk and in relation to any heritage building, the following matters will be considered:
 - The heritage significance, integrity and condition of the historic heritage, including any significant components or fabric and features of heritage value.
 - Any statutory protection, including any listing in the Heritage Items Schedule of the Hamilton City Proposed District Plan November 2001 (References Version), reserve management provision, covenant, heritage order or as an archaeological site under the Historic Places Act 1993.
 - Any advice from NZHPT or professional conservation organisation, heritage professional, including Council's own heritage advisers (if relevant).
 - Any relevant conservation report, conservation plan, condition report, management plan, heritage assessment or other document.
- In implementing the provisions of Sections 124-129 of the Building Act, Council will consider alternative methods to avoid unnecessary demolition of heritage buildings, including:
 - Restricting public access. —
 - Erecting public warning signs.
 - Consulting owners and the NZHPT in relation to any proposed written notice requiring work.

Providing extended timeframes for heritage buildings in relation to any written notice requiring work;

Ensuring that any written notice requiring work provides options to repair the building as appropriate;

Examining options for Council to repair buildings under Section 126 of the Building Act, with negotiation on the terms and methods of recovering costs;

For any notice issued in relation to a heritage building under Section 124 of the Building Act, Council will provide a copy of the notice to the Historic Places Trust;

In assessing the upgrading of heritage buildings to meet the Building Act requirements, Council will examine options for compliance with the Building Act and consider the varying effects on the heritage values of the building. In addition, any assessment for the upgrading of heritage buildings will consider the following matters:

Ensuring that all new work involves minimal possible intrusion to the site and the heritage fabric of the building;

Any advice from NZHPT or professional conservation organisation, heritage professional, including Council's own heritage advisers (if relevant);

In the case of potential earthquake-prone buildings, a management plan will also be developed for any required structural improvements, in which the timeframes for completion may differ from the timeframes outlined in Section 4.1 of this Policy. However, public health and safety will remain the priority and higher risk aspects of the buildings will still require strengthening under the timeframes outlined in Section 4.1;

Financial assistance for assessment and upgrading of earthquake-prone heritage buildings

Council acknowledges that the requirement for structural improvements to be undertaken on any building deemed to be earthquake-prone will carry a financial burden for the owner. However, in the case of heritage buildings, Council recognises the importance of these buildings to the historical and cultural life of the nation and local community;

Council does not wish to see the intrinsic value of heritage buildings adversely affected by structural improvement measures. In the matter of structural assessments to heritage buildings, Council will meet the costs of an engineering assessment for heritage buildings included on the New Zealand Historic Places Trust (NZHPT) Register, the Heritage Items Schedule of the Hamilton City Proposed District Plan November 2001 (References Version), listed heritage places, buildings of significance to iwi and other buildings of significance to the community, including:

- any listed in a strategy or management plan prepared under the Conservation Act 1987 or Reserves Act 1977;
- any within a reserve identified by the Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes;
- any listed in an iwi management plan;
- buildings or structures associated with historic cemeteries or memorials;
- any buildings managed for heritage purposes by agencies, such as the Historic Places Trust, Department of Conservation or by Council; and buildings or structures subject to heritage order, heritage covenant or other protective covenant.

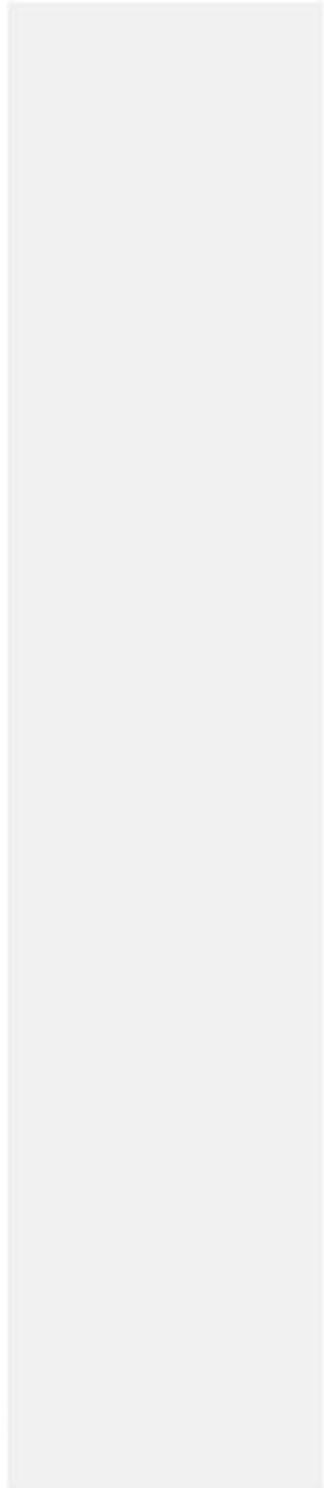
Policy review

Due to the nature of this Policy, Council acknowledges the need for it to be reviewed on an ongoing basis, based on further information becoming available as each stage of the Policy is completed.

Council may choose to review this Policy at any time, however, the first formal review will be in 2009, after the date for engineering assessments to Category One buildings has elapsed (i.e. 1 March 2009).

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Item 9

Attachment 3

Appendix 1**Definitions of earthquake-prone, dangerous and insanitary buildings**

The definition of an earthquake-prone building is set out in Section 122 of the Building Act 2004 and in the related Building Regulation SR 2005/32 that defines a “moderate earthquake”. Section 121 of the Building Act 2004 defines a dangerous building and Section 123 defines an insanitary building.

1. A building is earthquake-prone for the purposes of this Act (the Building Act 2004) if, having regard to its condition and to the ground on which it is built, and because of its construction, the building:

a) will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and

b) would be likely to collapse causing:

i. injury or death to persons in the building or to persons on any other property; or

ii. damage to any other property.

2. Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building:

a) comprises 2 or more storeys; and

b) contains 3 or more household units.

Earthquake-prone buildings: moderate earthquake defined:

For the purposes of section 122 (meaning earthquake-prone building) of the Act (the Building Act 2004), moderate earthquake means, in relation to a building, an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity, and displacement) that would be used to design a new building at that site.

1. A building is dangerous for the purposes of this Act (the Building Act 2004) if:

a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause:

i. injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or

ii. damage to other property; or

b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.

2. For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority:

a) may seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and

b) if the advice is sought, must have due regard to the advice.

A building is insanitary for the purposes of this Act (the Building Act 2004) if the building:

a) is offensive or likely to be injurious to health because:

i. of how it is situated or constructed; or

ii. it is in a state of disrepair; or

b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or

c) does not have a supply of potable water that is adequate for its intended use; or

d) does not have sanitary facilities that are adequate for its intended use.

Appendix 2

Risk matrix

This risk matrix has been constructed in conjunction with a qualified structural engineer and is based on the New Zealand Society of Earthquake Engineer's recommendations prepared for the Department of Building and Housing, the fire safety and egress solutions in the Building Code and the policy guidance for territorial authorities produced by the Department of Building and Housing.

Building Risk Assessment Earthquake Prone Dangerous and Insanitary Buildings

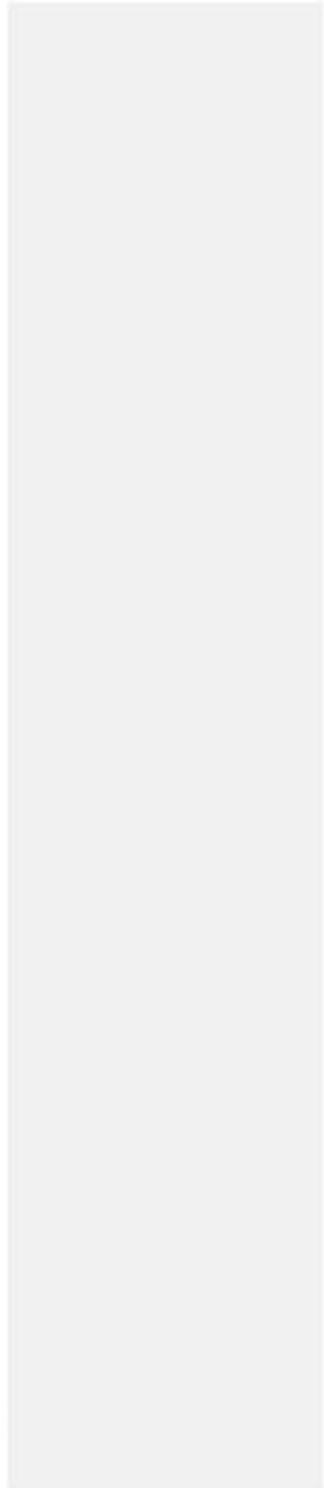
Address.....

Lot No:..... DPS No:..... Building Consent No:.....

<u>Risk factor</u>	<u>Rating (H/L)</u>	<u>Score</u>
Users		
1. What is the maximum number of users at any one any one time	100 + people (H) = 10 Less than 100 people (L) = 7	<input type="text"/>
2. What is the predominant age group of the building users?	Children or Infants (H) = 10 Adults (L) = 3	<input type="text"/>
3. What is the general capability of the building users?	Mentally handicapped/immobile (H) = 10 Physically handicapped but mobile (H) = 6 Normal (L) = 3	<input type="text"/>
Usage of the building		
4. What is the sleeping activity rating for the building in terms of the building code?	SD, SA, SC, (H) = 10 SR (L) = 3	<input type="text"/>
5. Is the building used for any of the following activities?		<input type="text"/>
a. Education	Children (H) = 10 Adults (L) = 3	
b. Old people's home	Geriatric (H) = 10 Mobile (L) = 3	
c. Hospital (private or public)	Bedridden (H) = 10 Mobile (L) = 3	
d. Residential institution	Bedridden (H) = 10 Mobile (L) = 3	
e. Place of Assembly	>100 people (H) = 10 <100 (L) = 3	
f. Hotels and motels	>20 people (H) = 7 <5 (L) = 3	
g. Backpackers and homestays	>20 people (H) = 7 <5 (L) = 3	
h. Attached multi-unit buildings	>5 apartments (H) = 7 3-5 (L) = 3	
6. What is the crowd, working, business or storage activity for the building in terms of the building code?	WD, WM, CL, CM (H) = 10 WL, CS (L) = 3	<input type="text"/>
Building characteristics		
7. Does the building have common walls with others?	>1 (H) = 5 <1 (L) = 3	<input type="text"/>
8. How many storeys does the building have? 1 2 3 4 5 6 7 8 9 includes basements	2 = 5 add 5 for every subsequent storey	<input type="text"/>
9. Any historic clarification or significance?	Yes = 2	<input type="text"/>
10. Is the building in the inner city, in a large development area or of high density?	Yes (H) = 10	<input type="text"/>
11. What is the age and condition of the building? e.g. Pre 1940 = 10	Assign score 1-10 accordingly	<input type="text"/>
12. Are there any other factors to be considered? e.g. parapets, verandahs, attachments or adornments	Assign score 1-10 accordingly	<input type="text"/>
Total score (out of approx 100) <i>Note: > 60 = Low Risk < 60 = High Risk</i>		<input type="text"/>

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Item 9

Attachment 3

Appendix 3

Outline Implementation Programme – Earthquake-Prone Buildings

Building Category	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029				
Category 1				Building owner to obtain an engineering assessment by 1 March 2009																								
				Council to serve notices where necessary																								
				Building owner to take action to improve/demolish the building by 31 March 2019																								
Category 2				Building owner to obtain an engineering assessment by 1 March 2010																								
				Council to serve notices where necessary																								
				Building owner to take action to improve/demolish the building by 31 March 2030																								
Category 3				Building owner may elect whether or not they obtain an engineering assessment.																								
				(No notice to be issued unless the building changes category;																								
				elective strengthening or demolition by the owner)																								

Council Report

Item 10

Committee: Council **Date:** 16 November 2017
Author: Rebecca Watson **Authoriser:** Lee-Ann Jordan
Position: Committee Advisor **Position:** Governance Manager
Report Name: Recommendation from the Finance Committee - NZ Food Innovation (Waikato) Ltd - Spray Dryer Two

Report Status	<i>Open</i>
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1. To seek the Council's approval for a recommendation from the Finance Committee at its meeting on 7 November 2017, in respect of NZ Food Innovation (Waikato) Ltd – Spray Dryer Two.
2. The 7 November 2017 Finance Committee Agenda And minutes will be available via the following link:
3. [http://www.hamilton.govt.nz/our-council/Council meetings and public information/meetings-and-minutes/Pages/default.aspx](http://www.hamilton.govt.nz/our-council/Council%20meetings%20and%20public%20information/meetings-and-minutes/Pages/default.aspx)

Staff Recommendation

That the Council:

- a) approves the Spray Dryer Two proposal by NZ Food Innovation (Waikato) Ltd, on the basis that the shareholding arrangements in the new subsidiary does not inhibit Councils ability to sell its shareholding in NZ Food Innovation (Waikato) Ltd in the future;
- b) notes that no Council direct investment is required in this proposal;
- c) notes the NZ Food Innovation (Waikato) Ltd will invest \$1.4m from existing cashflows in a new company to be established to build and operate a Spray Dryer and receive a 10% shareholding in the company;
- d) notes the development of Spray Dryer Two aligns with the approved Innovation Waikato Ltd and Group of companies 2017-2018 Statement of Intent; and
- e) that the CE investigate and report to council an exit strategy for NZ Food Innovation (Waikato) Ltd noting that this strategy is unable to be executed until 2020 at the earliest due the legal contractual considerations.

Attachments

There are no attachments for this report.

Council Report

Attachment 1

Committee: Council **Date:** 16 November 2017
Author: Becca Brooke **Authoriser:** Lee-Ann Jordan
Position: Governance Team Leader **Position:** Governance Manager
Report Name: 2018 Hamilton City Council Schedule of Meetings

Report Status	<i>Open</i>
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1. To seek approval from the Council on a schedule of meetings of Council and Committees for 2018.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) approves the proposed 2018 Schedule of Meetings (Attachement 1).

Background

3. It is good practice for Council to approve a schedule of meetings for the following calendar year so that the business of the Council can be conducted in an orderly and transparent manner. This also allows public notification of meetings to be given in compliance with the Local Government Official Information and Meetings Act 1987.
4. The proposed 2018 HCC schedule of meetings sets out the meeting dates and times for the 2018 calendar year for Council and committees of Council in line with the approved Governance Structure for the 2016-2018 triennium.
5. The following considerations informed the development of the proposed 2018 schedule of meetings:
 - Council meetings to be held monthly, commencing at 9.30am
 - Committee meetings to be held on a six weekly cycle, commencing at 9.30am and are concentrated on Tuesdays and Thursdays
 - Audit and Risk Committee meetings to be held quarterly
 - Hearings and Regulatory Committee meetings to be held as business requires
 - DLC Committee meetings to be held as business requires
 - HCC/Waikato-Tainui Co-Governance Forum meetings to continue to be held quarterly, meeting dates/times to be determined in partnership with Waikato-Tainui
 - CEO Review Committee meetings as business requires
 - Mondays and Fridays to be kept clear of governance business to provide Councillors with the opportunity to carry out constituency work.

Attachments

Attachment 1 – Draft 2018 Hamilton City Council Schedule of Meetings.

Item 11

Hamilton City Council - Draft Schedule of Meeting - 2018

	January	February	March	April	May	June	July	August	September	October	November	December
Mon	1	New Years								1		
Tues	2	Day after New year			1					2		
Wed	3				2			1		3		
Thur	4	1	DLC	1	Waste Hearing	3		2	COUNCIL	4	1	
Fri	5	2		2	Zone 2	4	Briefing	3		5	2	Zone 2
Sat	6	3		3		5		4		6	3	1
Sun	7	4		4	1	6		5	2	7	4	2
Mon	8	5		5	2	Easter Monday	7	4	Queens Birthday	8	5	3
Tues	9	6	Waitangi day	6	Tainui Co-Gove	3	Finance	8	Tainui Co-Gove	5	C & S	Tues
Wed	10	7	10 YP Briefing	7		4		9		6		5
Thur	11	8	COUNCIL	8	A & R	5		10		7	Briefing	6
Fri	12	9	DLC	9		6		11		8		7
Sat	13	10		10		7		12		9		8
Sun	14	11		11		8		13		10		9
Mon	15	12	RMA	12		9		14		11		10
Tues	16	13	Briefing/RMA	13		10	G & I	15	10 YP Hearing	12		11
Wed	17	14	RMA	14		11		16	10 YP Hearing	13		12
Thur	18	15	10 YP Briefing	15	COUNCIL	12		17	10 YP Hearing	14	A & R	13
Fri	19	16	DLC/ Citizenship	16	DLC/Citizenship	13		18	DLC/Citizenship	15	DLC/Citizenship	14
Sat	20	17		17		14		19		16		15
Sun	21	18		18		15		20		17		16
Mon	22	19		19		16		21		18		17
Tues	23	20	G & I	20	VHT	17	C & S	22	Finance	19	VHT	18
Wed	24	21		21	DLC	18	DLC	23		20	DLC	19
Thur	25	22	Finance	22	Briefing	19	COUNCIL	24	COUNCIL	21		20
Fri	26	23		23		20	DLC/Citizenship	25		22		21
Sat	27	24		24		21		26		23		22
Sun	28	25		25		22		27		24		23
Mon	29	Auckland Anniversary	26		23		25	28		25		24
Tues	30		C & S	27	10 YP Council	24		29	G & I	26		25
Wed	31	28		28		25	ANZAC	30	DLC	27		26
Thur				29		26		31	10 YP Council	28	10 YP Council	27
Fri				30	Good Friday	27		29		28		28
Sat						28		30		29		29
Sun						29				30		30
Mon						30						
Tues												

Council	Waikato DHB Board Meetings
Growth and Infrastructure	Citizenship ceremonies
Community and Services	Vibrant Hamilton Trust
Finance	Tainui Co-Governance
Audit and Risk	
DLC	
Regulatory Hearings	
Elected Member Briefing	

Public Holiday and Christmas Holidays

Attachment 1

Item 11

Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of Elected Member Briefing Notes - Closed - 18 October 2017) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. City Honours - Civic Awards 2017) Official Information and Meetings Act 1987	
C3. Victoria on the River Precinct Update)	

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C3.	to enable Council to carry out negotiations	Section 7 (2) (i)