

Council Report

Committee: Community, Services and Environment Committee

Date: 14 May 2019

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Report Name: Class 4 Gambling Venue Policy Review

Report Status	<i>Open</i>
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Purpose

1. To seek the Community, Services and Environment Committee's decision on whether to retain the Council's existing Class 4 Gambling Venue Policy or approve the proposed Statement of Proposal to consult the community on two policy positions.

Staff Recommendation

That the Community, Services and Environment Committee:

- a) receives the report and;
- b) **Option 1** - approves the retention of the existing Class 4 Gambling Venue Policy unamended and schedule the next review date for the existing policy of May 2021.
Or
- c) **Option 2** - approves the proposed Statement of Proposal (SOP) (Attachment 1) and the consultation period of 17 May to 17 June 2019 in relation to the Class 4 Gambling Venue Policy.

Executive Summary

2. The Gambling Act 2003 (the Act) allows for growth of gambling to be controlled through councils.
3. The Act requires councils to have a Class 4 Gambling Venue Policy (Class 4 Policy) (s101(1) the Act).
4. 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.
5. The existing Class 4 Policy (see Attachment 3) is a 'sinking lid' Class 4 Policy allowing for only limited relocations and mergers.
6. The existing Class 4 Policy was originally adopted in September 2016 and reviewed in May 2018. Its review date is September 2019. At the time of adoption, the Elected Members

confirmed the September 2019 review date on the basis that new statistical data would be available from StatsNZ.

7. The Census 2018 statistics were expected to provide additional insights into community impacts of the existing Class 4 Policy including a revised deprivation index.
8. Staff have not received the expected data and there is no timeframe provided from StatsNZ.
9. Since the [Council resolution of 24 May 2018](#) to retain the existing policy, a Hamilton gaming venue has relocated while legally retaining its gambling machine licence.
10. Additional analysis has been undertaken regarding funding for community groups, identifying that:
 - a) funding is not exclusive to funding from Class 4 gambling venues; and
 - b) the adoption of any policy cannot retrospectively close a Class 4 venue and venues continue to provide 40% of gambling profits to the community; and
 - c) funding is unlikely to decrease in the short to medium term as a result of the proposed policy changes.
11. **Option 1** - As the Council reviewed the existing Class 4 Policy in May 2018, the Council has the option to retain the existing Policy without consultation. If the existing policy is retained, the next review date will be scheduled for May 2021.
12. **Option 2** - The Council also has the option to get feedback from the community on a different policy position. In accordance with s102 of the Act, the adoption of a new or amended Class 4 Policy would entail:
 - using the special consultative procedure (SCP) under s83 of the Local Government Act 202 (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 August 2019; and
 - presenting a deliberations report to the Council on 17 September 2019 for a decision.
13. The Statement of Proposal (SOP) (see Attachment 1) outlines two options for feedback from the community:
 - Adopt the proposed Class 4 Policy, with no relocations or mergers permitted (see Attachment 2).
 - Retain the existing Class 4 Policy, with sinking lid on venues and machines as well as limited relocations and mergers permitted (see Attachment 3).
14. Under Option 2, the scheduled review date for any policy adopted will be September 2022.
15. The recommendation presented complies with the Council's legal requirements.

Background

16. The Act requires all councils to have a Class 4 Policy (s101(1), the Act).
17. Under s101(4) of the Act, a 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.
18. 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.
19. For venues operated by clubs, a Class 4 Policy must also include statements on:
- a) whether to allow existing club venues to increase the number of machines, up to a maximum of 18 machines; and
 - b) how many machines will be allowed (up to a maximum of 30), when two club venues merge into one venue.
20. 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.
21. The Council assesses any venue consent applications for a new venue against a Class 4 Policy.
22. The Department of Internal Affairs (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

23. In approving a Class 4 Policy, the Council must have regard to the social impact of gambling within Hamilton (s101(2), the Act). The social impact will be considered by the Council given the following:
- the Elected Members being representative of the community;
 - written and verbal feedback received during the submission period by the community.

Hamilton Statistics

24. Data from the DIA shows:

- from year end Dec-17 to year end Dec-18, gross machine profit¹ (GMP) from Hamilton gaming machines increased by \$660,531 or by 2.7%²; and
- from December-2018, compared to last quarter, Hamilton has increased the number of gaming machines by 4.43% or by 182; and
- the number of venues has not changed²; and
- GMP per gaming machine in Hamilton increased by \$3,585 since Mar-2015, which translates to \$15,062 in Dec-2018 or a 31.2% increase².

GMP per year (of which 40% is distributed to community groups)



25. There has not been a decline in gaming machine numbers or GMP under the Council’s existing ‘sinking lid’ policy.
26. Additional analysis on the existing policy indicates that a reduction in the number of venues or number of machines is unlikely to result in a reduction in funding available to community groups.
27. There has been an increase in per machine GMP in both Hamilton City (2.7%) and nationally (3.1%) from 2017 to 2018.
28. Over the same period, total numbers of venues and gaming machines have decreased nationally, while number of venues has held steady in Hamilton.
29. In the past year, one gaming machine venue has changed location, and was able to continue to operate under its licence despite the ‘sinking-lid’ intention of the current policy.
30. This indicates that a slow decline in numbers of venues as a result of a ‘sinking-lid’ policy is likely to be matched by a gradual increase in per machine GMP. This is expected to maintain a relatively stable generation of community funding (which remains at least 40% of total GMP).
31. In the long term, it is anticipated that government initiatives will provide new opportunities for community group funding.

Harm

32. Harm is defined under s4 of the Act and means harm or distress of any kind arising from, or caused or exacerbated by, a person’s gambling and includes personal, social, or economic harm suffered:
 - by the person; or
 - the person’s spouse, partner, family, whanau, or wider community; or

¹ The money lost on gaming machines is called the gross machine profit (GMP). It is the amount wagered, less the amount paid back as prizes.

² Department of Internal Affairs statistics ([https://www.dia.govt.nz/diawebsite.nsf/Files/Gambling-Statistics/\\$file/GMP-quarterly-Dashboard-Dec-2018.xlsx](https://www.dia.govt.nz/diawebsite.nsf/Files/Gambling-Statistics/$file/GMP-quarterly-Dashboard-Dec-2018.xlsx))

- in the workplace; or
 - by society at large.
33. The definition is broad as it includes personal, social and economic harm. Harm is also not confined to an individual; others can suffer harm as a result of a person’s gambling.

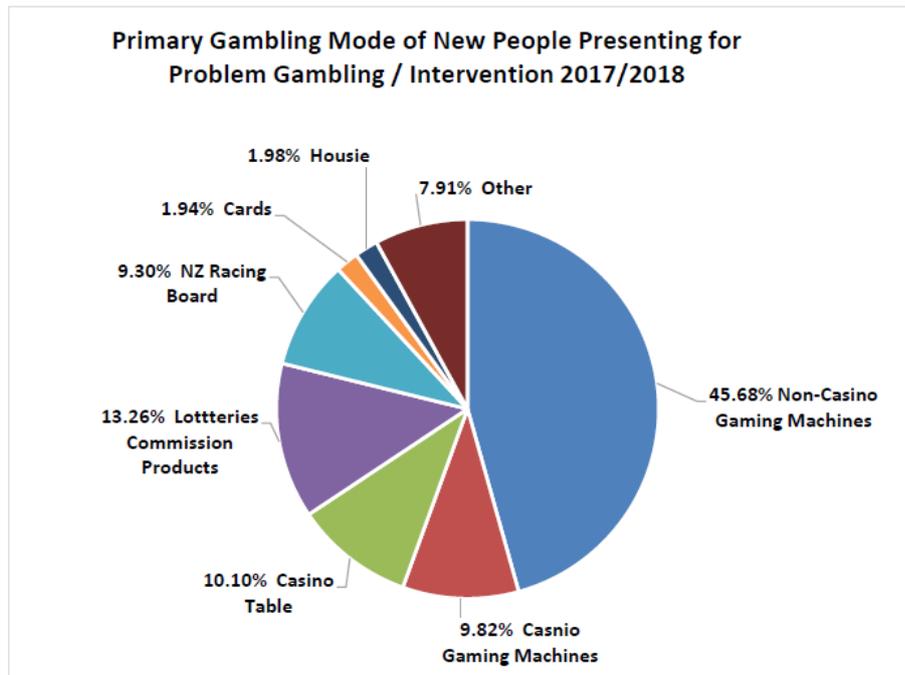
Problem Gambling Statistics

34. The category of gambler and meaning are discussed throughout the [Health Promotion Agency Gambling Report – Results from the 2016 Health and Lifestyles Survey \(February 2018\)](#) report (the **HPA Report**) and the Ministry’s [Gambling and Problem Gambling: Results of the 2011/12 New Zealand Health Survey](#) report (the **Health Survey Report**). The categories are summarised and outlined in the table below:

Category	Meaning
Recreational/non-problem gamblers	People who are gambling recreationally and are experiencing no self-reported harm.
Low-risk gamblers	People who may be experiencing some degree of harm or negative consequences from their gambling. For example, they may very occasionally spend over their limit or feel guilty about their gambling.
Moderate-risk gambler	People who are likely to be experiencing some harm leading to negative consequences. For example, they may sometimes spend more than they can afford, lose track of time or feel guilty about their gambling.
Problem gambler	Problem gamblers gamble with negative consequences and a possible loss of control. For example, they may often spend over their limit, gamble to win back money and feel stressed about their gambling.

35. The National Gambling Study Wave 4 (2015) Report No. 6, undertaken by Auckland University of Technology (AUT) on behalf of the Ministry of Health (the Ministry), highlights 0.2% of participants were problem gamblers, 1.8% were moderate-risk gamblers, 4.6% were low-risk gamblers and 68% were non-problem gamblers.
36. Records are kept by the Ministry of the number of people who seek help from problem gambling. For Hamilton in the period July 2017 to June 2018, the number of new clients assisted were 103 people with 202 clients assisted in total³. These have been the lowest reported figures since 2006.
37. For the 2017/2018 financial year, 45.68% of new clients who sought help cited non-casino gaming machines as their primary gambling mode; 9.82% cited casino gaming machines, making the gaming machine total 55.5%.³

³ Gaming Machine Gambling Statistics and Research Paper – Information for Territorial Authorities; Paper prepared by Jarrod True and Martin Cheer; Updated April 2019



Source: Ministry of Health Website http://www.health.govt.nz/our-work/preventative-health-wellness/problem-gambling/service-user-data/intervention-client-data#total_assisted.

Gambling harm vs other health states

38. The Ministry contracted Central Queensland University and AUT to provide the [Measuring the Burden of Gambling Harm in New Zealand \(2017\)](#) report which highlights the harm caused from gambling compared to other health states. The report outlines that gambling annually generates more ongoing harm in terms of years of healthy life lost than other key health conditions as highlighted in the graph below (refer to page 187 of the report).

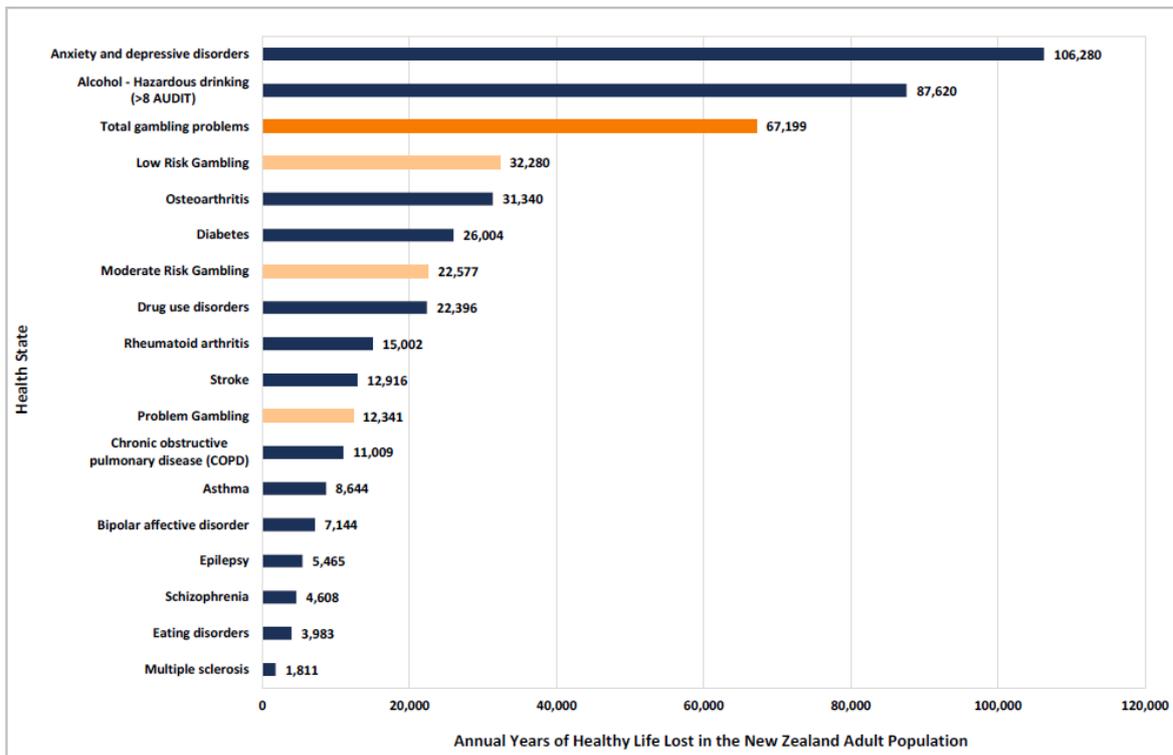


Figure 18. QALY₁ in the New Zealand adult population - gambling problems versus other health states

National gambling goal/strategy

39. Although there is no national goal or strategy for gambling such as the Smoke-Free Aotearoa 2025, the Act (under s317) requires the development of an integrated problem gambling strategy focused on public health. The Act states that the strategy must include:
- measures to promote public health by preventing and minimising the harm from gambling;
 - services to treat and assist problem gambling and its effect on families/whanau;
 - independent scientific research associated with gambling;
 - evaluation.
40. As of 1 July 2016, the Ministry's work in this area is guided by its [Strategy to Prevent and Minimise Gambling Harm 2016/17 to 2018/19](#) (the Ministry's Strategy), which sets out a high-level framework to guide the structure, delivery and direction of Ministry-funded problem gambling services and activities.

Class 4 vs other gambling

41. The DIA gambling expenditure statistics show the amount lost by gamblers (operators' profits) for the four main types of gambling activity between the financial years ending 2010-2018 and as provided in the figure below:
- TAB racing and sports betting
 - New Zealand Lotteries products
 - gaming machines outside casinos (i.e. Class 4 gaming machines)
 - casino gambling.

More information can be found on DIA's website [here](#).



42. Compared to the other three main gambling activities, Class 4 accounts for the significant contribution to losses by gamblers for every year in the period reported.

Option 1 – Retain existing policy

43. The following table outlines advantages and disadvantages of retaining the existing policy:

Retain status quo – existing ‘sinking lid’ policy adopted Sept 2016	
Overview	Sinking lid on venues and machines allowing for only limited relocation and mergers.
Key Elements	<p>Relocations (Clauses 4-7 and 12)</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 not 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 not 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 nine (9) machines each are currently allowed 18 machines at a new combined club</i></p>
Costs (future)	Nil
Advantages	Disadvantages
<ol style="list-style-type: none"> 1. Policy continues to be effective upon resolving to receive the report as 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. 	<ol style="list-style-type: none"> 1. Does not give the community opportunity to be consulted on an alternative policy position. 2. Corporate societies may not feel incentivised to cease gaming operations given they will not be able to get a new venue consent.

<ol style="list-style-type: none"> 4. Gaming venues and gaming machine numbers cannot increase under the existing policy. 5. Enables 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 more productive use of land by reducing barriers to venues from freeing up prime land/leases under the existing policy. 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. 	
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44. Under option 1, the scheduled review date for the policy will be May 2021.

Option 2 - Consult the community on existing and new policy

45. The Council may choose to consult the community as per the attached Statement of Proposal (SOP).

46. The SOP outlines two options for consultation:

- Adopt the proposed Class 4 Policy, with no relocations or mergers permitted;
- Retain the Council's existing Class 4 Policy, with limited relocations and mergers permitted.

47. In addition to the outline of the existing policy above (paragraph 44), the following table outlines advantages and disadvantages on adopting a sinking lid policy:

Adoption of new 'sinking lid' policy for consultation – no relocations or mergers	
Overview	Sinking lid on venues and machines with <u>no</u> relocations or mergers permitted.
Consultation period	17 May – 17 June 2019
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

	<i>Example: A club that is destroyed due to a fire will not be permitted to merge its gambling operations with another club</i>	
Costs (future)	Nil	
Advantages	Disadvantages	
<ol style="list-style-type: none"> 1. Provides the community opportunity to be consulted on an alternative policy position. 2. Gaming venues and gaming machine numbers cannot increase in proposed policy. 3. Community funding still available from corporate societies in proposed policy until all venues are permanently closed. 	<ol style="list-style-type: none"> 1. Further staff resourcing and costs (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. 2. Corporate societies may not feel incentivised to close venues given they will not be able to get a new venue consent. 3. 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. 4. 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). 	

48. Under Option 2, the scheduled review date for any policy adopted will be September 2022.

Financial Considerations

49. The preparation and presentation of this report is a regular activity funded through the 10-Year Plan.
50. The approximate cost for the preparation and presentation of this report is \$3,000 (staff time).

Legal and Policy Considerations

51. 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

52. Cultural considerations of any potential change to the policy will be addressed with organisations representing Maaori in Hamilton during the consultation process.

Risks

53. 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

54. 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

55. The Council must consult and in accordance with the Act if the proposed Class 4 Policy is approved for consultation. 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 (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).
56. 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 17 May and 17 June 2019); 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 at the meeting of the Regulatory and Hearings Committee on 20 August 2019.

Attachments

Attachment 1 - Draft Class 4 Gambling Venue Policy - Statement of Proposal

Attachment 2 - Proposed Class 4 Gambling Venue Policy

Attachment 3 - Existing Class 4 Gambling Venue Policy .