

# Draft Gambling Policy

*(CLASS 4 VENUE AND BOARD VENUE)*

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## **1.0 INTRODUCTION**

The Gambling Act 2003 came in to force on 18 September 2003. Under the Act, the Whakatāne District Council is required to adopt a Class 4 Venue Policy for the Whakatāne District.

Section 101 of the Act stipulates that the Council's Class 4 Venue Policy:

- a) Must specify whether Class 4 Venues may be established in the territorial authority district and, if so, where they may be located; and
- b) May specify any restrictions on the maximum number of gaming machines that may be operated at a new Class 4 Venue.

Under the Gambling (Gambling Harm Reduction) Amendment Act 2013, the Council is required to consider whether to include a relocation clause when reviewing the Class 4 Venue policy.

The Gambling Act 2003 also amended the Racing Act 2003 so that territorial authority consent is required to establish a new TAB (called a Board Venue in the Act). Under that amendment, the Council is required to adopt a Board Venue Policy for the District.

Section 65D of the Racing Act 2003 stipulates that the Council's Board Venue Policy must specify whether new Board Venues may be established in the district and, if so, where they may be located.

Both policies must be reviewed every three years in accordance with the special consultative procedure prescribed in the Local Government Act 2002. Reviews must have regard to the social impact of gambling within the District. A social impact assessment was undertaken in 2015/16, and informed the development of this policy.

This Whakatāne District Council Policy covers both Class 4 Venues and Board Venues.

## **2.0 POLICY OBJECTIVES**

- a) To control the growth of gambling; and
- b) To prevent and minimise the harm caused by gambling, including problem gambling; and
- c) To reduce the exposure of under 18's to gambling; and
- d) To reduce the total number of licenced gaming machines in the district; and
- e) To facilitate community involvement in decisions about the provision of gambling.

## **3.0 DEFINITION OF TERMS**

*Gaming Machine:* Refers to a Class 4 non-casino gaming machine.

*Licensed Gaming Machine:*

- a) Gaming machines that are currently licensed and operating; and
- b) Gaming machines that are not operating but were at a venue that has closed but has not

been unlicensed for six months or more; and

- c) Gaming machines that are not operating but are located at a venue which has obtained a dispensation to be inactive for more than four weeks; and
- d) Gaming machines that are licenced but not currently operational due to a venue holding a licence to operate more machines than they are currently operating; and
- e) Gaming machines for which council has granted a consent but that have yet to be installed and made operational.

*Class 4 Venue:* A venue that is licensed to operate Class 4 gaming machines. The Act categorises gambling activities according to their intensity and potential for harm. Class 4 gambling (gambling using non-casino gaming machines) is the highest-risk form of gambling outside of a casino. Racing and sports betting, which are covered by the Racing Act 2003, do not fall within this classification system.

*Board Venue:* Defined in Section 5 of the Racing Act 2003 as “premises that are owned or leased by the Board and where the main business carried on at the premises is providing racing betting or sports betting services under this Act.”

*Proposed Whakatāne District Plan:* Council has undertaken a review of the Whakatāne District Plan and has produced the Proposed Whakatāne District Plan. The Proposed Whakatāne District Plan is the Council's primary planning document prepared under the Resource Management Act 1991. It contains policies and objectives, as well as rules governing the use of land. It also contains planning maps that show the various zonings of all land within the Council's District. The rules vary depending upon the zone, and to a large extent the zoning determines what land uses will be permitted in each particular zone. At the time of the adoption of this policy, appeals on the Proposed District Plan have closed, and are currently subject to Environment Court mediation. Those sections of the plan that are not subject to an appeal must be treated as operative.

*Corporate Society:* Societies operated under the Incorporated Societies Act 1908, the Charitable Trusts Act 1957, or the Companies Act 1993 that do not have capacity or power to make profit and are incorporated and conducted solely for authorised purposes. Workingmen's clubs registered under the Friendly Societies and Credit Unions Act 1982 are also included.

*Authorised Purpose:* Defined as a charitable or non-commercial purpose that is beneficial to the whole or a section of the community, or the promotion, controlling, and conducting of race meetings under the Racing Act 2003, including the payment of stakes.

#### **4.0 CLASS 4 VENUE POLICY**

Any person wishing to establish a new Class 4 Venue or operate additional gaming machines at a current Class 4 Venue is required to obtain the consent of the Council before applying for a licence from the Department of Internal Affairs.

In developing this policy the Council's focus (while having regard to the social impact of gambling within the District) is limited to:

- a) The location of new Class 4 Venues; and
- b) The number of gaming machines permitted at Class 4 Venues.

Other issues relating to these particular venues, including supervision of the premises, the character of the operators, distribution of proceeds from the gaming machines and procedures to minimise harm from gambling, are covered by the Department of Internal Affairs licensing system.

## **5.0 BOARD VENUE POLICY**

If the New Zealand Racing Board wishes to establish a new Board Venue within the Council's District then it must obtain the consent of the Council. An application by the Board must be considered by the Council, in accordance with the Board Venue Policy.

## **6.0 GENERAL CONDITIONS**

A club or society requires the consent of the Council in respect of a Class 4 Venue:

- a) To increase the number of licenced gaming machines that may be operated the venue; and
- b) To start operating gaming machines at a Class 4 Venue that was not on any society's licence within the previous six months; and
- c) To start operating gaming machines at a venue at which a Class 4 license was not held as of 17 October 2001; and
- d) To apply for ministerial discretion in order to increase the number of licenced gaming machines operated at a club; and
- e) To change the venue to which a Class 4 Licence applies, in accordance with the relocation policy set out by the Council.

The New Zealand Racing Board requires the consent of the Council if it proposes to establish a Board Venue.

An applicant for the Council's consent under this policy must:

- a) Meet any requirements specified in this policy; and
- b) Meet the fee requirements specified in the Council's fees and charges schedule; and
- c) Comply with regulations set out in the Gambling Act 2003.

## **7.0 CONSENT FOR AMENDMENT TO AN EXISTING CLASS 4 VENUE LICENCE**

The Gambling Act 2003 provides that no society may operate gaming machines at a Class 4 Venue additional to those that were legally operated at that venue on 22 September 2003, unless the Council approves an amendment to that existing Class 4 Venue licence to allow an increase in the number of gaming machines.

The Council may grant consent to an amendment to an existing Class 4 Venue licence to allow an increase in the number of licenced gaming machines that may be operated at a venue when:

- a) The number of gaming machines proposed for the venue at the time of application will not result in the total number of licenced gaming machines in the District exceeding 141; and
- b) The Class 4 Venue is not within 50 metres of a parcel of land with a sensitive use (see Section 12 of this Policy).

## **8.0 APPLICATIONS FOR NEW CLASS 4 VENUE AND BOARD VENUES**

The Council may grant consent to a new Class 4 Venue or Board Venue when:

- a) The number of gaming machines proposed for the venue will not result in the total number of licenced gaming machines in the District exceeding 141; and
- b) The proposed Class 4 or Board Venue is located within a Business Centre Zone as defined in the Proposed Whakatāne District Plan; and
- c) The proposed location of the Class 4 Venue or Board Venue is not within 50 metres of a parcel of land with a sensitive use (see Section 12 of this Policy); and
- d) The regulations stipulated in the Gambling Act 2003 and the regulations contained in The Gambling Regulations 2004 and 2006 are adhered to.
- e) As specified in Section 12 of this Policy, a new Class 4 Venue or Board Venue may not be established in any zone other than a Business Centre Zone as defined in the Proposed Whakatāne District Plan.

## **9.0 APPLICATIONS FOR THE RELOCATION OF CURRENT CLASS 4 VENUES**

An application to relocate a current Class 4 Venue will be granted consent as long as the proposed new venue is:

- a) Within a Business Centre zone in the District; and
- b) Not within 50 metres of a parcel of land with a sensitive use as defined in Section 12 of this Policy.

As per the Gambling Act, the number of licenced gaming machines at the new venue will be the same as the number of licenced gaming machines at the old venue.

## **10.0 CLUBS INTENDING TO MERGE**

When two clubs wish to merge physically and legally, they will be allowed to operate the sum of the number of gaming machines specified in all the corporate societies' Class 4 Venue licences at the time of application, or 18 machines, whichever is the lesser.

## **11.0 PRIMARY ACTIVITY OF CLASS 4 VENUES**

The primary activity of any Class 4 Venue must be for the sale of alcohol as defined in the Sale and Supply of Alcohol Act 2012 or for sale of alcohol as defined in the Sale and Supply of Alcohol Act 2012 and the provision of food.

The premises must be authorised under the Sale and Supply of Alcohol Act 2012 to sell and supply alcohol for consumption on the premises. However, operators who promote their premises for family dining or family activities (e.g. cinemas) are not considered appropriate premises for Class 4 gambling.

A Board Venue, as defined by the Racing Act 2003, is the only alternative as a non-alcohol venue for gaming machines.

## **12.0 LOCATION OF VENUES**

Proposed locations for new Class 4 Venues and Board Venues must not be within 50 metres of a parcel of land with a sensitive use. Sensitive use land includes educational institutes, childcare centres, playgrounds, parks, community facilities including swimming pools and community halls, places of worship, funeral homes, marae, Work and Income New Zealand offices, and medical centres.

The maps attached to this policy indicate permitted areas for new Class 4 Venues or Board Venues for indicative purposes only. The maps include 50 metre buffers from parcels of land with sensitive uses, as at 5 May 2016. Any proposed new Class 4 or Board Venue must ensure it is not located within 50 metres of a sensitive land use, as defined in this policy.

## **13.0 APPLICATIONS FOR CONSENTS**

All applications for consents must be made on the approved form and must provide:

- a) Evidence of a police clearance for owners and managers of the venue; and
- b) A copy of the proposed Gambling Harm Minimization Policy and staff training programme; and
- c) An audited 12-month business plan or budget for the establishment, covering both gambling and other activities proposed for the venue; and
- d) A site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue; and
- e) Details on the distance of the proposed venue to the nearest parcels of land with sensitive uses (as defined in Section 12); and
- f) Name and contact details for the applicant; and
- g) Street address of premises proposed for the Class 4 Venue or Board Venue; and
- h) Details of alcohol licence(s) applying to the premises.

All applications will incur a fee, to be known as the Venue Consent Fee, which will be prescribed by the Council pursuant to Section 150 of the Local Government Act 2002. This fee will cover:

- a) The cost of processing the application, including any consultation and hearings involved; and
- b) The cost of inspecting Class 4 gambling venues on a regular basis to ensure compliance with consent or licence conditions; and
- c) A proportion of the cost of monitoring and reviewing the policy.

The fee will be reviewed annually in accordance with the Council's Revenue and Financing Policy and the Council's adopted Fees and Charges Schedule.

#### **14.0 DECISION-MAKING**

The Council has 30 working days in which to determine a consent application.

Decisions on applications which meet the policy criteria will be made at officer level pursuant to delegated authority.

The Hearings Committee is delegated the authority to consider and determine applications which do not meet the criteria specified in the policy.

In the case of an application relating to a new Class 4 Venue or Board Venue, or an increase in the number of machines licenced at a current venue, the assessment of the number of licenced gaming machines in the Whakatāne District will be based on Department of Internal Affairs official records requested under Section 103 of the Gambling Act 2003.

#### **15.0 MONITORING AND REVIEW**

The Council will monitor the social impact of gambling on the community.

The Council may amend this policy as a result of the findings of the social impact monitoring.

The Council will complete a review of the policy every three years.

If the Council amends or replaces this policy, it shall do so in accordance with the special consultative procedure outlined in the Local Government Act 2002.