

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Regulatory and Hearings Committee will be held on:

Date: Tuesday 20 August 2019
Time: 9.30am
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Regulatory and Hearings Committee OPEN AGENDA (Class 4 Gambling Venue Policy Hearings)

Membership

Chairperson: Cr Angela O’Leary

Deputy Chairperson: Cr Leo Tooman

Membership: The Mayor and all Councillors
Maangai James Whetu
(The composition of any Regulatory Hearings Committee for quorum purposes to be determined by the Chairperson)

Meeting frequency: As required

Quorum: Three members

Claire Guthrie
Committee Advisor

13 August 2019

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Purpose

1. To conduct fair and effective hearings and make determinations on a range of the Council's quasi-judicial functions under legislation and other matters as referred to the Committee.
2. To convene and coordinate Task Force groups on matters referred by other Committees.

The Committee is delegated the following Terms of Reference and powers:

Terms of Reference:

1. Hear and determine any statutory or regulatory hearings under relevant legislation unless otherwise delegated by Council, including (but without limitation):
 - objections under the Dog Control Act 1996;
 - matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002;
 - proposals for temporary closure of any road.
2. Consider and determine changes to the registers and restrictions in the Traffic Bylaw and Speed Limit Bylaw, including hearing any submissions relating to those proposed changes.
3. Hear and determine matters arising under current bylaws, including applications for dispensation from compliance with the requirements of bylaws, unless such matters are otherwise delegated by Council.
4. Hear and determine other matters that require hearings or submissions, as referred by Council or other Committees.
5. To convene Task Force groups and carry out the terms of reference approved and referred by Council or other Committees.

The Committee is delegated the following powers to act:

- Approval of matters determined by the Committee within its Terms of Reference.
- Approval of activities and expenses relating to Task Force groups consistent with their terms of reference and approved Task Force group budget.

The Committee is delegated the following recommendatory powers:

- The Committee may make recommendations to the Council.
- The Committee may make recommendations to Committees.

Special Notes:

- The Committee may request expert advice through the Chief Executive when necessary.
- The Committee may appoint additional members for hearings where the relevant terms of reference specify the requirement for expert or external representation.

ITEM	TABLE OF CONTENTS	PAGE
1	Apologies	4
2	Confirmation of Agenda	4
3	Declarations of Interest	4
4	Class 4 Gambling Venue Policy - Submissions and Hearings Report	5

1 Apologies

2 Confirmation of Agenda

The Committee 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.

Council Report

Item 4

Committee: Regulatory and Hearings Committee
Date: 20 August 2019
Author: Sandra Murray
Authoriser: Jen Baird
Position: Consultant
Position: General Manager City Growth
Report Name: Class 4 Gambling Venue Policy - Submissions and Hearings Report

Report Status	<i>Open</i>
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Purpose

1. To inform the Regulatory and Hearings Committee on the submissions received in response to public consultation on the review of the Hamilton Class 4 Gambling Venue Policy (**Class 4 Policy**).

Staff Recommendation

2. That the Regulatory and Hearings Committee:
 - a) receives the report;
 - b) hears and considers the submissions for the Class 4 Gambling Venue Policy review; and
 - c) notes that the Class 4 Gambling Venue Policy Review Deliberations Report will be considered at the 17 September 2019 Council meeting.

Executive Summary

3. On 11 May 2019, the Regulatory and Hearings Committee approved consultation on a proposed Class 4 Policy, with two options for feedback from the community:
 - a) **Option A:** Retain the existing Class 4 Gambling Venue Policy, with a 'sinking lid' on venues and machines as well as limited relocations and mergers permitted.
 - b) **Option B:** Adopt the proposed Class 4 Gambling Venue Policy, with no relocations or mergers permitted.
4. The consultation period was 17 May to 17 June 2019. The Council received 403 submissions, including:
 - a) 27 submissions from individuals / householders
 - b) 65 submissions from a representative of a business, organisation or community group
 - c) 308 submissions provided via a template submission form of unknown origin
 - d) 3 did not provide information on representation.

5. Submitter support for the options was as follows:
 - Option A: 93.8%
 - Option B: 5.7%
 - Not Answered: 0.5%.
6. The main points made in submissions are outlined below. For further detail, see paragraphs 26 and 27.

Support for Option A	Support for Option B
<p>a) A perception that a reduction in gaming machine numbers will result in a reduction in funding allocated to community groups, with a concern that this will have an adverse impact.</p> <p>b) Support for the ability for venues to relocate.</p> <p>c) Support for the ability of venues to merge.</p> <p>d) The impact of online gambling.</p> <p>e) Commentary on the link between gaming machine numbers and problem gambling.</p> <p>f) Concerns regarding the frequency of review of the Hamilton City Council Class 4 Gambling Venue Policy review.</p>	<p>a) Discussion related to the harm caused to individuals and society from problem gambling.</p> <p>b) Discussion related to the addictiveness of Class 4 gaming machines.</p> <p>c) Support for the removal of relocations and mergers.</p> <p>d) Refutation that funding allocated to community groups would be adversely affected by removing the ability to relocate or merge venues.</p> <p>e) Refutation that stricter regulation around Class 4 venues would encourage people to move to online gambling.</p> <p>f) Discussion regarding what a ‘sinking lid’ policy meant to submitters.</p>

7. Staff consider the decisions in this report have low significance and that the recommendations comply with the Council’s legal requirements

Background

8. The Gambling Act 2003 (**the Act**) allows for the growth of gambling to be controlled by councils.
9. The Act requires councils to have a Class 4 Gambling Venue Policy (**Class 4 Policy**) (s101(1) the Act).
10. 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.
11. The Council’s existing Class 4 Policy is a ‘sinking lid’ Class 4 Policy allowing for only limited relocations and mergers.
12. On 11 May 2019 the Regulatory and Hearings Committee approved consultation on a proposed Class 4 Gambling Policy with two options for feedback from the community:
 - a) Option A: Retain the existing Class 4 Policy, with a ‘sinking lid’ on venues and machines as well as limited relocations and mergers permitted
 - b) Option B: Adopt the proposed Class 4 Policy, with no relocations or mergers permitted.
13. The consultation period was 17 May to 17 June 2019.

Discussion

14. The Council received 403 submissions in total. Submitters were categorised as follows:

Submitter Grouping	Number	Percentage
An individual / householder	27	6.7
A representative of a business, organisation or community group	65	16.13
Template submission	308	76.43
Not Answered	3	0.74
Total	403	100%

15. The Council received 308 submissions in a template submission format supporting Option A. This manner of providing submissions is a legal and valid manner for submitters to present their views. The template form is attached to this report (Attachment 1).
16. It is not known who designed or distributed the template form.
17. Of the 403 submissions received from public consultation, 93.8% supported Option A and 5.7% supported Option B.

Option Supported	Number	Percentage
Option A (retain existing Class 4 Policy – limited relocations and club mergers permitted)	378	93.8
Option B (adopt proposed Class 4 Policy – no relocations or club mergers permitted)	23	5.7
Not Answered	2	0.5

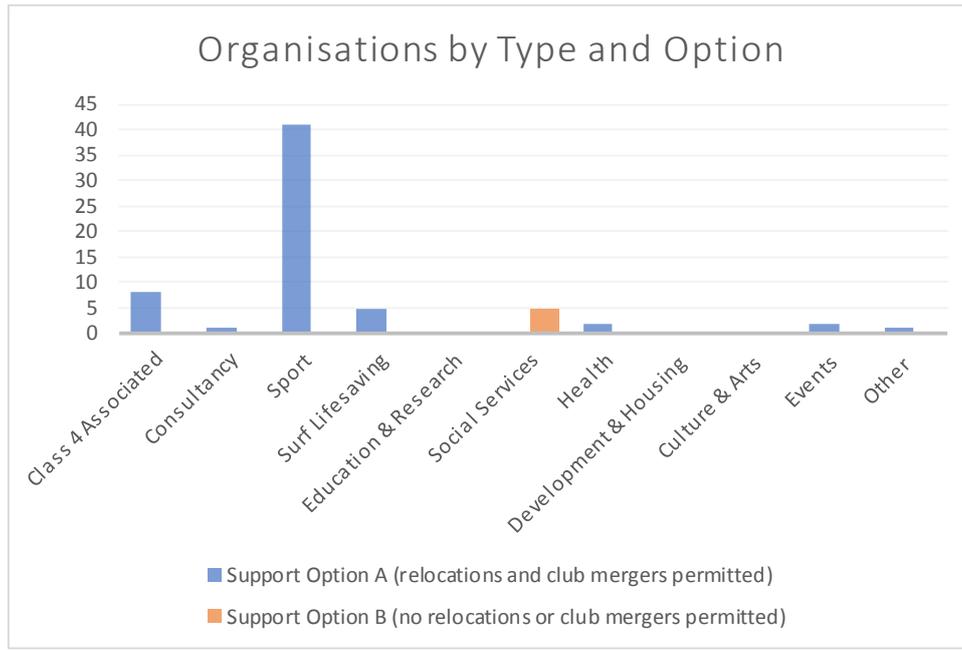
Analysis of submissions from individuals/householders

18. Many submitters did not respond to demographic questions through the consultation form. Therefore, an analysis of individuals/householder submitters was not able to be undertaken.

Analysis of submissions from a business, organisation or community group

19. The Council received 65 submissions from representatives of a business, organisation or community group. Staff undertook analysis to identify if this group of submitters provide a broad representation of these sectors.

Type of Organisation	Support Option A	Support Option B
Class 4 Associated	8	0
Consultancy	1	0
Sport	41	0
Surf Lifesaving	5	0
Education & Research	0	0
Social Services	0	5
Health	2	0
Development & Housing	0	0
Culture & Arts	0	0
Events	2	0
Other	1	0
Total	60	5



20. A significant percentage of organisations who submitted (63%) are associated with sport.
21. If venues and organisations representing venues are excluded, 79% of submitting organisations are associated with sport.
22. To some extent, this may reflect the proportion of funding allocated to organisations associated with sport, although it does not fully account for the over-representation of sporting organisations compared to other community organisations.
23. The Department of Internal Affairs report [Class 4 Gambling Report 2017](#) indicates that 49% of funding was allocated to sport nationwide, with the remaining proportion allocated to all other funding recipient types.
24. The Problem Gambling Foundation submission provides additional information specific to Hamilton:

“the PGF Group database calculates that \$7,319,889.45 in pokie funding was returned directly to the Hamilton City area between 1 January 2018 and 31 March 2019. The losses to pokies from the City during this time come to \$30,707,144.02, making the measurable return 23.8% of the spend. The funding can be generally grouped into ‘Sports’, which gained 51% of the total, with ‘Community service’ receiving 34%, and ‘Community groups’, 15%.”
25. To be considered a representative group of organisations who have previously received funding from Class 4 gaming machines, it would be expected that submitters (excluding venues) would include approximately 50% non-sporting organisations.
26. Therefore, the submissions received during this consultation from representatives of organisations or community groups should not be taken as providing broad representation of the community sector, or of funding recipients.

Support for Option A

27. Key points raised by submitters supporting Option A (retain existing Class 4 Policy – limited relocations and club mergers permitted) included:
 - a) A perception that a reduction in gaming machine numbers will result in a reduction in funding allocated to community groups, with a concern that this will have an adverse impact.

Example: *“Gaming Trusts fund a significant amount of our community cricket delivery and without this funding we would be severely restricted in our capability to continue to make cricket a game for all New Zealanders.”* (Northern Districts Cricket).

Staff note that, as reported to the Regulatory and Hearings Committee on 11 May 2019, statistics from the Department of Internal Affairs do not support the perception that a reduction in gaming machines is linked to a reduction in funds allocated to community groups. Statistics indicate that:

- the numbers of venues and gaming machines has declined since 2015
- the total Gaming Machine Profit has increased since 2015.
- the total funding pool available for community organisations has increased since 2015.

b) Support for the ability for venues to relocate.

Example: *“Venue relocation is a harm minimisation tool. Venue relocation allows venues such as Five Crossroads Sports Bar and Café to move out of a non-gambling permitted zone (an area surrounded by residential homes) to a more suitable, gambling permitted area, such as the CBD. There is no good policy reason for taking steps to remove this option. Removing the option to relocate simply entrenches venues in undesirable locations.*

If council was truly concerned about reducing gambling harm, the relocation policy should in fact be expanded, to enable existing venues to move out of low socio-economic areas, such as Frankton and Five Crossroads, to more affluent areas such as Rototuna.” (Gaming Machine Association of New Zealand)

c) Support for the ability of venues to merge.

Example: *“A number of Clubs throughout Hamilton and nationally are finding it more difficult to trade. Mergers and a combination of assets are an alternative to closing.”* (Hamilton Combined Returned Services Club)

d) The impact of online gambling.

Example: *“The public has access to a growing number of overseas gambling websites where they can spend their entertainment dollar. These sites are highly accessible, even to minors, often offer inducements to keep players betting, and have no bet size restrictions or guaranteed return to players. They do not return any funds to the New Zealand community or the New Zealand Government, and have no harm minimisation measures in place.”* (NZ Community Trust)

e) Commentary on the link between gaming machine numbers and problem gambling.

Example: *“Whilst it is important to ensure at-risk gamblers are protected, it is not guaranteed that limiting the number of pokie machines will reduce problem gambling, as opportunities to gamble can develop through other, unregulated and unstructured methods. Perhaps a solution should be sought in providing gamblers with techniques and strategies to identify and overcome problematic habits and behaviours whilst allowing them to enjoy such an activity.”* (Waikato Badminton Association)

f) Concerns regarding the frequency of review of the Hamilton City Council Class 4 Policy review.

Example: *“Considering in the last twelve months there has been no new data i.e. census data or new deprivation index data; and council have reviewed this policy twice in the last three years, there is absolutely no basis for Hamilton City Council to undertake this review.”* (Grassroots Trust)

Support for Option B

28. Key points raised by submitters supporting Option B (adopt proposed Class 4 Policy – no relocations or club mergers permitted) included:
- a) Discussion related to the harm caused to individuals and society from problem gambling. The Waikato District Health Board made substantial comment on this issue.

Examples:

“Māori are over represented with respect to problem gambling and experience disproportionate levels of gambling harm; 6.2% of Māori adults are problem or moderate-risk gamblers compared with prevalence for the total New Zealand population of 2.5%.”

“Class 4 gambling (non-casino pokies) represents high risk, high-turnover gambling. Continuous gambling is more closely associated with harm.”

“Of particular concern, are the multiple forms of harm experienced by children under the care of those experiencing problems with gambling. Harm can include neglect; staying up late; losing sleep; missing school; being hungry; eating more take away or convenience foods, and potential vulnerability to abuse through lack of supervision.”

- b) Discussion related to the addictiveness of Class 4 gaming machines.

Example: *“Of concern is the recent increase in pokie spend despite slowly but steadily falling numbers of EGMs and venues since the Gambling Act was introduced in 2003. EGMs are designed to be addictive, and courageous council policies are required to reduce pokie numbers and therefore the harm they cause within communities.”* (Problem Gambling Foundation)

- c) Support for the removal of relocations and mergers.

Example: *“This is the only approach that will lead to a reduction of gamblers' losses and gambling harm over time in Hamilton. The evidence shows that if the number of machines is allowed to remain more or less static (Option A), gamblers' losses will continue to increase as trusts and venue operators find new ways to increase the return per machine.*

I submit that the Council's Class 4 Gambling Venue Policy should be principally and specifically designed to reduce gambling harm by the managed reduction of gamblers' losses in the City, by any means within the framework of the law.” (Community Action Against Alcohol Harm)

- d) Refutation that funding allocated to community groups would be adversely affected by removing the ability to relocate or merge venues.

Example: *“I don't believe the money distributed back to communities attenuates the harm these machines cause to whanau.”* (Individual).

Example: *“Pokie trusts often espouse that many community groups would not survive without pokie money. While it is true that some groups would suffer, pokie trusts account for only 10.2% of charitable giving in New Zealand; as a comparison, personal giving accounts for 58% of charitable giving in New Zealand.*

Existing pokie venues are not affected by a sinking lid policy. A sinking lid only prevents new venues from being granted a licence, so the decline in venues and pokies happens gradually. Therefore, a sinking lid policy should not have an immediate or significant impact on community funding.”
(Problem Gambling Foundation)

- e) Refutation that stricter regulation around Class 4 venues would encourage people to move to online gambling.

Example: “PGF recognises the risks online gambling poses to people with gambling problems. However, pokie trusts often attempt to divert attention from pokies to online gambling. Some pokie trusts have gone so far as saying “a sinking lid accelerates the migration to online gambling” from which communities lose all funding benefits. There is no research to say that people move, or are moving, from pokies to online gambling. The 2018 Health and Lifestyles survey shows that the proportion of New Zealanders gambling online via overseas websites has actually fallen since 2014.”
(Problem Gambling Foundation)

- f) Discussion regarding what a ‘sinking lid’ policy meant to submitters.

Example: “Class 4 gambling venue policies that allow relocations and mergers, do not provide a true sinking lid approach. Policies that allow relocations and mergers provide opportunities to maintain electronic gaming machine (pokie) numbers when venues may otherwise close.”
(Waikato District Health Board)

Next Steps

29. The Class 4 Gambling Venue Policy Review Deliberations Report will be presented to the Council at the 17 September 2019 meeting.

Options

30. No options are available for the Council to consider as no decision is required other than to receive the report.

Financial Considerations

31. The review of the Class 4 Gambling Venue Policy is a regular operating activity funded through the 10-Year Plan.
32. The estimated cost of undertaking this review is \$13,000. This is comparable to previous reviews.

Legal and Policy Considerations

33. Staff confirm that the recommendation in this report complies with the Council’s legal and policy requirements.

Wellbeing Considerations

34. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future (‘the 4 wellbeings’).
35. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.

Social Considerations

36. Social well-being is defined as the capacity of individuals, their families, whaanau, iwi, hapuu and a range of communities to set goals and achieve them.
37. The types of harm caused by Class 4 gambling include financial loss, relationship difficulties, distress, cultural harm, reduced performance and even crime. Problem gambling has been associated with major depressive disorder, and alcohol misuse and dependence. (*New Zealand National Gambling Study Wave 4 (2015)*, AUT Gambling & Addictions Research Centre, 2018).
38. Problem gambling can lead to multiple forms of harm experienced by children under the care of those experiencing problems with gambling. Harm can include neglect; staying up late; losing sleep; missing school; being hungry; eating more take away or convenience foods, and potential vulnerability to abuse through lack of supervision communities (*The impact of gambling on Māori. Ngā Pae o te Māramatanga*).
39. Research suggests that it is not only the number of gaming machines or venues that impacts harm, but also factors such as the design of machines, and venues being designed to encourage solitary play, with minimal scrutiny partitioned away from the main space (in pubs and clubs) and with no tables to socialise in the area (*Gambling Harm Reduction Needs Assessment*, Sapere Research, 2018).
40. Class 4 Gambling is a form of entertainment for people in the community and may be enjoyed as part of social activities.
41. Class 4 gambling contributes to the funding of community groups, via grants schemes. Information from the Gaming Machine Association of New Zealand indicates the total authorised purpose funding (including the non-published club authorised purpose payments) received from Hamilton-based venues is over \$10 million annually.

Economic Considerations

42. Economic wellbeing is defined as the capacity of the economy to generate employment and wealth necessary for present and future financial security
43. Class 4 Gambling is a source of revenue for venues and creates some employment in Hamilton City.
44. Class 4 gambling provides grants funding for many community and sporting groups who may otherwise need to reduce or cease activities.
45. The Problem Gambling Foundation Group calculates that \$7,319,889.45 in gaming machine funding was returned directly to the Hamilton area between 1 January 2018 and 31 March 2019. The losses to gaming machines from Hamilton during this time is estimated at \$30,707,144.02, making the measurable return 23.8% of the spend.
46. The burden of harm from problem gambling is mainly from financial problems, damage to health and relationships, emotional and psychological distress, and adverse effects on work and education (*New Zealand National Gambling Study Wave 4 (2015)*, AUT Gambling & Addictions Research Centre, 2018).

Cultural Considerations

47. Cultural wellbeing is defined as the capacity of communities to retain, interpret and express their shared beliefs, values, customs, behaviours, and identities.
48. Maaori comprise around 20% of Hamilton's residents and it is estimated that 40% of those identifying as Maaori are from hapu with close ties to the Hamilton area. Hamilton has one of the fastest-growing urban Maaori populations.

49. The [Strategy to Prevent and Minimise Gambling Harm](#), released by the Government on 28 June 2019, states "... Māori and Pacific adults were more likely to develop problems from gambling (ie, to become a low-risk, moderate-risk or problem gambler) than European/other New Zealanders. Asian people also experienced a slightly higher risk. ".....Māori, Pacific peoples and Asian peoples are each more than twice as likely to experience moderate to severe gambling harm than the European/other population."
50. Information from the Problem Gambling Foundation indicates:
- a) Maaori populations comprise 31% of problem gambling intervention service clients but make up only 15% of the population.
 - b) There has been a rise in the number of Maaori women seeking help for gambling problems. Maaori women seeking help for their gambling problems almost exclusively (85.6% in 2008) cite gaming machines as their problematic mode of gambling.
51. In the 2018 Health and Lifestyles survey, 7% of adults (268,000) reported experiencing at least one form of household-level gambling harm. Maaori respondents were most likely to be affected by household gambling harms.
52. A 2009 study of gambling in Maaori communities (*The impact of gambling on Māori. Ngā Pae o te Māramatanga*) outlines how Maaori children are at risk if gambling is part of their young lives. When exposed to gambling activities from an early age, children grow up seeing gambling as a normal activity and central to social life. They may be encouraged to participate from a young age. Dysfunction at home, in the form of financial problems or domestic violence increases the risk that they will look to gambling for an escape. As they grow, their gambling may become more intense until it has become problematic.
53. Organisations representing Maaori in Hamilton were given notice of the review process and their opportunity to provide feedback.

Environmental Considerations

54. The following Hamilton City Council Sustainability Principles are relevant to this issue:
- Sustainability Principle 6: *Council works to improve the resource efficiency and health of homes, businesses and infrastructure in our city.*
 - Sustainability Principle 10: *Council works with its communities to minimise the production of waste and maximise opportunities to recycle.*
55. That electricity used by Hamilton's gaming machines is roughly equivalent to 36-49 households.
56. It is unknown how end-of-life electronic gaming machines are disposed of.

Risks

57. There are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy

Significance

58. Staff considered the following factors under the Significance and Engagement Policy:
- The form of engagement used in the past for similar proposals and decisions
59. The consultation for the proposed regulatory changes has been completed in accordance with the legal requirements, and staff have therefore assessed that the recommendations have low significance.

Engagement

60. Community views and preferences are already known to the Council through the consultation that has been undertaken prior to the preparation of this report.

Attachments

Attachment 1 - Template Form - Submissions to 2019 Class 4 Gambling Consultation .

Hamilton City Council Gambling Venue Policy Submission

I support council retaining the existing policy that allows gaming venues to relocate and permits club mergers (option A).

A club merger results in an overall reduction in the number of gaming venues and the total number of gaming machines in the city.

Allowing relocations:

- Enables venues to move out of unsuitable areas to more suitable areas.
- Enables venues to re-establish after a natural disaster or fire.
- Enables venues to move to new refurbished premises.
- Creates fairness in cases of public works acquisition.
- Enables venues to move, if they wish, off large blocks of land.

I do not wish to verbally present to council in support of my submission/feedback. This is my individual submission. I am a Hamilton city resident.

Name: _____

Address: _____

Phone: _____

Attachment 1

Item 4