

---

TO Mayor and Councillors

AUTHOR Michelle Clive  
Strategic Planner

FILE REFERENCE Document: 2736117  
Appendix A: Social impact assessment 2020 (2719784)  
Appendix B: Statement of Proposal (2735724) and proposed  
Gambling Policy 2020 (2730713)

PORTFOLIO HOLDER/S Mayor Toby Adams  
Policy Portfolio

MEETING DATE Wednesday, 15 July 2020

SUBJECT **Gambling Policy review – Statement of Proposal and  
proposed policy**

## SUMMARY | TE WHAKARĀPOPOTANGA

- The council is required to have policies for gaming machine venues and agency venues (standalone TAB venues) within its district.
- The Council's *Class 4 Gambling Venue and NZ Racing Board Venue Policy 2017* is due for review by October 2020.
- It is recommended that the Council continue to have a sinking lid policy based on the social impact assessment (**Appendix A**) with the aim of reducing gaming machine numbers and venues over time.
- The statement of proposal and proposed policy (**Appendix B**) based on the working party recommendations has been prepared for consultation with the community.
- No significant changes have been recommended from the current policy.
- Options and issues considered by the working party have been included in the report.
  - Social impact assessment;
  - Limitations;
  - Sinking lid policies and caps;
  - Options for venues to merge;
  - Relocation of Class 4 gaming venues; and
  - Other minor changes.
- The proposed recommendation is to undertake a special consultative procedure with the Statement of Proposal with proposed policy (**Appendix B**) from 17 July to 17 August 2020.
- This recommendation allows for the community of interest to be engaged through their expected and preferred method.

## RECOMMENDATION | TE WHAIKUPU

THAT the report be received, and

THAT the '2020 Social Impact Assessment' be received, and

THAT the Council has regard for the Social Impact Assessment in considering the adoption of the proposed Gambling Policy, and

THAT the proposed Gambling Policy be adopted for public consultation in accordance with section 83 of the Local Government Act 2002, and

THAT the proposed Gambling Policy Statement of Proposal (SOP) document be adopted for public consultation in accordance with section 83 of the Local Government Act 2002.

### 1 PURPOSE | TE ARONGA

To present the Social Impact Assessment, Statement of Proposal and proposed Gambling Policy to Council for consideration.

### 2 BACKGROUND | TE KŌRERO Ā MUA

Councils are required to have a policy or policies in place for Class 4 gaming venues and agency venues (standalone TAB venues) within their districts as per the Gambling Act 2003 and Racing Act 2003.

The Council's current Class 4 gambling venue and NZ Racing Board Policy was last reviewed in 2017 and is due for review by October 2020. The policy was originally programmed to be reviewed in April/May 2020, however with Covid-19, the review was postponed.

The current policy is considered to be a 'sinking lid' in that over time it aims to reduce the number of gaming machines and venues within the district.

Council, at its 12 February 2020 meeting, determined to review the policy and formed a working party to work on that review. The working party have met and considered the Social Impact assessment (Appendix A) and the issues to be considered for the review of the policy. From the direction provided by the working party the statement of proposal and proposed Gambling Policy (**Appendix B**) is presented for Council to consider for consultation.

### 3 THE ISSUES | NGĀ TAKE

#### 3.1 Social impact assessment

When reviewing a gambling policy Council must have considered the social impact of gambling in high deprivation communities within its district as per section 102(5B) of the Gambling Act 2003. A social impact assessment (Appendix A) was considered by the working party. A summary of findings from the assessment was:

- Gambling is often a harmless form of entertainment, providing social opportunities as well as creating employment opportunities for venues, societies, and servicing industries.
- 67.2% of the adult population in New Zealand had participated in some form of gambling during in 2019; which is an estimated 2,650,000 adults, this is keeping with the generally downward trend which has seen gambling participation decrease from 82.7% in 2006.

- Two out of every five regular gaming machine users already have a gambling problem or are at risk of developing one.
- The proceeds from gaming machines are not required to be distributed back into the same community in which they were generated.
- The total proceeds that came from Hauraki District gaming machines in 2019 available for community distribution was around \$2.1million.
- Organisations in the Hauraki District received \$432,791.92 (21% of the total Gaming Machine Proceeds (GMP) in Hauraki from 2019) of gaming society funding in 2019. Of this, around \$7,464.74 was granted to the Hauraki District in 2019 from societies that do not operate machines in the District.

Overall the findings within the social impact assessment were not significantly different from previous reviews. The Hauraki District has various factors which should be considered in the outcomes sought from the gambling policy. These factors include that the district has a high deprivation level (particularly the Paeroa and Waihi wards). In addition, that the Hauraki District has a higher percentage of Māori living within the district than the national average. Māori are more likely to experience harm from at risk gambling. These findings suggest there should continue to be a focus on the reduction of gambling related harm. Although there is some benefit to the community from grants reinvested within the district far too little of what is taken from the district has direct benefits back into the Hauraki District and in particular the communities from which it was directly lost.

Since the Social Impact Assessment was undertaken there has been a White Paper *Ending Community Sector Dependence on Pokie Funding* undertaken by PGF (Problem Gambling Foundation) Group, Hāpai Te Hauora and the Salvation Army. The White Paper seeks government funding of community groups from the beginning of Level 4 lockdown for the Covid-19 Pandemic for a year to allow for a reform of the funding for community groups, removing the dependence on money raised by gaming machines. This does not directly impact the current policy review however contributes to the understanding of the current legislative environment around gambling harm.

### 3.2 Limitations

There are limitations of what is and isn't allowable within a class 4 venue policy. The policy provides a stake in the sand for which decisions on licence applications within our district will be made. Council can include the following in its policy:

- **Must** specify whether or not Class 4 venues may be established in the district and, if so, where they may be located,
- **May** specify any restrictions on the maximum number of gaming machines that may be operated at a Class 4 venue,
- In determining whether venues may be established in the district and where they may be located Council can consider:
  - Characteristics of the district and parts of the district
  - Locations of kindergartens, early childcare centres, schools, places of worship and other community facilities
  - 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 primary activity at any venue should be.
- **May** include a relocation policy.

Council must also have an Agency venue (TAB venue) policy with the following considered:

- **Must** specify whether or not a new venue may be established in the district and, if so, where they may be located.
- In determining whether venues may be established in the district and where they may be located Council can consider:
  - Characteristics of the district and parts of the district

- Locations of kindergartens, early childcare centres, schools, places of worship and other community facilities
- The cumulative effects of additional opportunities for gambling in the district.

### 3.3 Sinking lid policies and caps

Recent research shows that there is not a well-established link between a reduction in gaming machines and reduced expenditure as previously relied on for gambling policies. This may be that there has not been sufficient reduction in machine venues in most cases to be able to see significant decrease in gambling expenditure and therefore harm.

In the case of the Hauraki District there has been no reduction in gaming machines in nine years and we have seen an increase in gambling expenditure. It would be difficult to draw any conclusion as to whether a sinking lid has a positive effect (a reduction in problem gambling) for the district when the number of machines and venues has not changed.

The current policy's cap for gaming venues is nine with a cap of 69 machines across the district. Due to the licences held prior to the adoption of the Gambling Policy there is a total of nine venues with 119 machines (one venue also has the potential for another four machines within their current licence). Council cannot interfere with existing licences held by venues and so the only way machines/venues numbers will reduce is if they:

- Let their licence lapse for 6 months or more (and have to apply for a new licence)
- Close and the licence is not taken on by a new owner
- Voluntarily reduce their own numbers of machines

The purpose of a gambling policy is to state whether new venues can operate and where they can be located. The Council's legislated role is to adopt a policy noting these requirements, and approve consent for new venues (with the full application being considered by the Department of Internal Affairs (DIA)). In this way the application of the Gambling Policy does prevent any new premises from getting a licence for gaming machines, as any application for consent would be declined in line with the policy, as additional machines or venues would exceed the caps. All other licences pre date the gambling policy and we cannot apply it retrospectively.

Therefore, there will continue to be a significant gap between the Council's desired amount of gaming machines through the Council's Gambling Policy and the actual amount in the district. Despite uncertainty about the known effect of sinking lid policies on the reduction of gambling related harm, the recommended policy option from the Ministry of Health to suit a medium risk district, is a policy with restricting locations or restricting locations and numbers of machines. This risk factor combined with the social impact information noted in the social impact assessment (Appendix A) would continue to warrant a sinking lid policy approach from the Council.

Within the existing policy there is a clause aiming at reduction in gaming machines per head of population with the Hauraki District to eventually align with the national per head of population. When the policy was last reviewed the national per head of population was 67 and the cap placed on the Hauraki district was 69. This is 50 less machines than there currently is within the district (total of 119 machines). The current 2020 national per head of population is 46 and the current Hauraki per head of population is 59. This is due to an increase in population and a decrease nationally in gaming machines.

Given there is already a 50 machine difference between the cap and what is already licenced within the district staff do not suggest lowering or raising the current caps given they are still a way off. They are still an appropriate target to reduce venues and gaming machines within the district should a venue close, let their licence lapse or voluntarily reduce machines. Until the actual number of machines is closer to the cap the existing cap it still a suitable target. If by the next review of the policy, there had been a significant reduction in machines, it would be appropriate to reconsider the cap.

### 3.4 Option for venues to merge

Within the existing policy there has been included an option which allows for two or more existing venues to merge and apply for a new machine licence as per the policy below:

#### 3.7. CLUBS MERGING WITH CLASS 4 GAMBLING LICENCES

- 3.7.1. Should two or more clubs with existing Class 4 gambling venue licences merge the Council will give consideration to the maximum number of machines at the merged venue being up to the lesser of:
  - a. the number of merging venues multiplied by nine; or
  - b. the total of the machine numbers in the merging venues prior to the merger; or
  - c. 18 machines.
- 3.7.2. The Council requires confirmation that cancellation of previous class 4 venue licences held by the corporate societies has been undertaken before it will approve consent for the proposed merged venue.<sup>1</sup>

This clause allows for clubs within the district to merge existing licences and retain their machines with certain restrictions. This clause is not mandatory and if removed clubs could not merge their gaming machines licences within the district. The clause removes barriers to clubs merging which with the current clause means that any merging clubs would have no greater than 18 machines maximum between them. This would mean a reduction based on what the clubs have currently. Not allowing clubs to merge machine numbers is a disincentive to reducing numbers of venues.

It is recommended by the working party that this clause be retained and that (a) be removed as it is a redundant option.

### 3.5 Relocation of class 4 gambling premises

During the 2017 review of the policy a change was recommended to allow for relocation of class 4 gambling premises which was to allow for the possibility of the Waihi RSA to relocate to the Recreation and Community Centre at Morgan Park due to an aging building. The 2014 policy did not have a relocation clause, meaning that no venues could relocate under any circumstance. The relocation clause in the existing policy as below allows for the Council to use its discretion on whether it permits or does not permit relocation, based on a number of factors and conditions. The relocation to Morgan Park is no longer a consideration of the Waihi RSA.

#### 3.9. RELOCATION POLICY

- 3.9.1. The Council may permit a class 4 venue to re-establish at a new site where, due to extraordinary circumstances, the owner or lessee of the class 4 venue cannot continue to operate at the existing site. Examples of such circumstances include, but are not limited to, the following:
  - a. expiration of the lease; or
  - b. acquisition of property under the Public Works Act; or
  - c. site redevelopment.
- 3.9.2. Any permission to re-establish a class 4 venue at a new site under clause 3.9.1 will be subject to the following conditions:
  - a. The venue operator of the business at the new site shall be the same venue operator at the site to be vacated;
  - b. The maximum number of gaming machines permitted to operate at the new venue at the time when the new 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;<sup>2</sup>
  - c. The new site must meet all other requirements as set out in this policy.

Not having a relocation policy would mean venues would not be able to relocate within the district for any reason. There are reasons why you would want to let a venue relocate, for

example if the existing premises were in a location that was contrary to the policy (i.e. within 50 metres of a school boundary) then allowing it to move into a location that is controlled by the Councils policy is preferable to it staying in its current location.

However, a relocation policy is not required and is an option provided to Council to include within their gambling policy. Therefore, should a less permissive approach to gaming machines want to be taken removing the relocation policy would mean any venue which had to relocate would have to apply for a new licence. Under the policy no licences would be approved based on the current cap on gaming machines already having been exceeded by existing licences.

### 3.6 Other minor changes

#### **Policy structure and format**

There have also been some proposed changes to the format and structure of the document (**Appendix B**) to realign it with new Council templates for policies. These have not impacted existing content but may have reshuffled the order. All additions to the current policy have been added with an underline to highlight their inclusion and anything that has been removed has a strikethrough.

#### **Title of the policy and references to NZRB**

The existing title of the policy references the New Zealand Racing Board (NZRB) which is currently the Racing Industry Transition Authority (RITA) and will become the Racing Industry Authority (RIA) should the Racing Amendment Bill be enacted.

To best align with the Racing Act 2003 it is suggested the title be changed from 'Class 4 Gambling Venue and NZ Racing Board Venue Policy' to 'Gambling Policy: Class 4 and agency venues'.

All references to NZRB venues have been removed and replaced with agency venues as per the definition within the Racing Act 2003.

## 4 ENGAGING WITH OUR COMMUNITIES | KIA UIA TE HAPORI WHĀNUI

Staff consider that the Council does not have enough of an understanding of **community views and preferences** on this matter. The level of engagement considered appropriate for this matter, at this point in time, is to consult (i.e. two-way communication to obtain public feedback)

There is a clear community of interest in this policy and those parties have an expectation on being able to provide their feedback both through written and verbal formats. Therefore, as per the *Significance and Engagement Policy* when the communities' preference is known we should endeavour to engage them in that way.

When amending a Gambling Policy as per the Gambling Act 2003 and the Racing Act 2003 the special consultative procedure should be undertaken. However, in the case that a review makes no significant changes to a policy this requirement is not triggered. Despite no significant changes being proposed to the policy, there is an understanding of community preference for type of engagement. Therefore, a special consultative procedure is the most appropriate way of obtaining the communities feedback.

## 5 OUR OPTIONS | NGĀ KŌWHIRINGA A MĀTOU

Staff have identified the following options for the Council to consider:

- Retaining the status quo, make no changes to the policy and advise the community the policy has been reviewed, unchanged and no further feedback will be sought.

- Undertake the special consultative procedure on the statement of proposal and proposed Gambling policy as attached.
- Make further changes to the proposed policy and undertake the special consultative procedure as legally required amending the policy.

These options and their advantages and disadvantages are outlined below.

## 5.1 OPTION 1: Retain Status Quo

<b>ABOUT THIS OPTION</b> Council could choose to make no changes to the policy and take an inform approach to engagement (one-way communication/advising) with the community.	
<b>ADVANTAGES</b> <ul style="list-style-type: none"> <li>• Nothing further required.</li> </ul>	<b>DISADVANTAGES</b> <ul style="list-style-type: none"> <li>• Risk to Council reputation through not providing appropriate avenues for interested parties to engage.</li> <li>• The policy will not have had the proposed minor changes to enable it to best reflect current times.</li> </ul>
<b>FINANCIAL COSTS</b>	
Whole of life costs	One off operating cost to inform : <ul style="list-style-type: none"> <li>• Up to \$200 for a public notice in the Hauraki Herald</li> <li>• Internal staff time to disseminate emails to interested parties.</li> </ul>
Budget source	Existing Strategic Planning budget
Changes to budgets	In order to accommodate these costs there will not need to be changes to budgets.
Impact on the Council's debt	There is no impact on the Council's debt.
Potential impact on rates	There will be no impact on rates because this comes out of existing budgets.

## 5.2 OPTION 2: Consult on the proposed SOP and Policy

<b>ABOUT THIS OPTION</b> Undertaking the special consultative procedure on the Statement of Proposal and proposed Gambling Policy as attached.	
<b>ADVANTAGES</b> <ul style="list-style-type: none"> <li>• Community are engaged through their preferred option</li> <li>• Community feedback can be considered and reflected in the policy where appropriate</li> <li>• Policy gets the minor changes it needs to stay current</li> </ul>	<b>DISADVANTAGES</b> <ul style="list-style-type: none"> <li>• There is no legal requirement to undertake the special consultative procedure when no significant amendments are being made.</li> </ul>
<b>FINANCIAL COSTS</b>	
Whole of life costs	One off operating cost:

	<ul style="list-style-type: none"> <li>• Approximately \$250 for combined public notification with the other SOP's being proposed for as part of this Council agenda (responsible freedom camping, nuisance bylaw (vehicle crossings) dangerous and insanitary buildings policy and gambling policy.</li> <li>• document publication costs which would be met from existing printing budgets,</li> <li>• staff time for implementing consultation process and the collating public feedback for the consideration of the Council.</li> </ul>
Budget source	Existing Strategic Planning budget
Changes to budgets	In order to accommodate these costs there will not need to be changes to budgets.
Impact on the Council's debt	There is no impact on the Council's debt.
Potential impact on rates	There will be no impact on rates because this comes out of existing budgets.

### 5.3 Make changes to the proposed policy and SOP before consultation

<p><b>ABOUT THIS OPTION</b> Council may wish to make amendments to the proposed policy and statement of proposal before it is consulted on.</p>	
<p><b>ADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• Community are engaged through their preferred option</li> <li>• Community feedback can be considered and reflected in the policy where appropriate</li> <li>• The policy reflects changes the Council considers appropriate</li> </ul>	<p><b>DISADVANTAGES</b></p> <ul style="list-style-type: none"> <li>• May add a small delay in consultation to allow staff time to amend to proposed policy and statement of proposal for consultation.</li> </ul>
<p><b>FINANCIAL COSTS</b></p>	
Whole of life costs	<p>One off operating cost:</p> <ul style="list-style-type: none"> <li>• Approximately \$250 for combined public notification with the other SOP's being proposed for as part of this Council agenda (responsible freedom camping, nuisance bylaw (vehicle crossings) dangerous and insanitary buildings policy and gambling policy.</li> <li>• document publication costs which would be met from existing printing budgets,</li> <li>• staff time for implementing consultation process and the collating public feedback for the consideration of the Council.</li> </ul>
Budget source	Existing Strategic Planning budget
Changes to budgets	In order to accommodate these costs there will not need to be changes to budgets.
Impact on the Council's debt	There is no impact on the Council's debt.
Potential impact on rates	There will be no impact on rates because this comes out of existing budgets.



## 6 PREFERRED OPTION | TE KŌWHIRINGA MATUA

Staff recommend proceeding with option 2 – Consult on proposed SOP and Policy.

### 6.1 LINKAGES

STRATEGIC DIRECTION	The preferred option IS consistent with the <b>Council’s strategic direction</b> , including community outcomes.	<ul style="list-style-type: none"> <li>• <b>Progress Hauraki</b> We are a proactive council that provides leadership and communicates effectively with all sectors of our district.</li> <li>• <b>Kotahitanga Hauraki</b> We take a collaborative approach with both Mana Whenua and Tangata Whenua in our district.</li> <li>• <b>Interactive Hauraki</b> We have a positive climate that encourages balanced and sustained economic growth throughout the district.</li> <li>• <i>Please note, as at the drafting of this report staff were in the process of being advised of the new Community Outcomes as adopted at 24 June 2020 Council meeting.</i></li> </ul>
LONG TERM PLAN / ANNUAL PLAN ALIGNMENT	The preferred option IS consistent with the <b>long term plan and/or annual plan programmes and budgets</b> .	This options meets out legal obligations and fits within existing programmes and budgets.
POLICIES, BYLAWS AND PLANS ALIGNMENT	The preferred option IS consistent with the Council’s <b>other strategies, policies, bylaws and plans</b>	This option does not contradict any other strategies, policies, bylaws or plans.
SIGNIFICANCE ASSESSMENT	The decision IS <b>considered significant</b> under the Council’s Significance and Engagement Policy 2017.	This decision is significant as it is a policy that is legislatively required to be reviewed three yearly and has specific requirements and considerations.
IMPLICATIONS FOR MĀORI	The decision DOES NOT involve a <b>significant decision in relation to land or a body of water</b> .	

### 6.2 ASSESSING THE RISKS

Staff have not identified any risks associated with the preferred option.

## 7 NEXT STEPS | TE ARA KI MUA

Timeframe	Action	Comments
<b>17 Jul – 17 Aug 2020</b>	Special Consultative Procedure (Consultation)	
<b>9 Sep 2020</b>	Council hearings and deliberations	
<b>30 Sep 2020</b>	Council adoption of policy	

### Approval

<b>Prepared by</b>	Michelle Clive <b>Strategic Planner</b>
<b>Approved by</b>	Peter Thom <b>Group Manager Planning &amp; Environmental Services</b>