



MINUTES

**Regulatory Committee Meeting
Friday, 21 February 2020**

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Unconfirmed

**MINUTES OF TAURANGA CITY COUNCIL
REGULATORY COMMITTEE MEETING
HELD AT THE TAURANGA CITY COUNCIL, COUNCIL CHAMBERS, 91 WILLOW STREET,
TAURANGA
ON FRIDAY, 21 FEBRUARY 2020 AT 9AM**

PRESENT: Cr Steve Morris (Chairperson), Cr John Robson (Deputy Chairperson), Cr Jako Abrie, Cr Andrew Hollis

IN ATTENDANCE: Hemi Leef (Corporate Solicitor), Robyn Garrett (Team Leader: Committee Support)

EXTERNAL: Jarrod True, True Legal
Philip Steele, Lion Foundation: National Operations Manager

1 APOLOGIES

Nil.

2 PUBLIC FORUM

Nil.

3 ACCEPTANCE OF LATE ITEMS

Nil.

4 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil.

5 CHANGE TO ORDER OF BUSINESS

Nil.

6 DECLARATION OF CONFLICTS OF INTEREST

Nil.

7 BUSINESS

7.1 Report of Gaming Relocation Appeal - ON - SBS NZ LIMITED - 536219 - Rosco's Café and Bar

Staff: Hemi Leef, Corporate Solicitor

Key points

- The appeal was regarding an application to relocate gambling machines from a closed venue to a currently operating venue which held a Class 4 licence.
 - The application had been rejected as contrary to council's Gambling Venues Policy (the policy) which did not allow additional gaming machines and the effect of the relocation was to increase the number of machines at the recipient venue.
 - Clause 5.5 of the policy stated that *"No additional gambling machines may be operated at Class 4 venues within the Tauranga City boundaries"*.
 - Noted that this application was for a relocation of an existing licence not an application for a
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new venue.

In response to questions

- Clarified that the appellant had yet to receive approval from the Department of Internal Affairs (DIA) for a new gaming licence; however, it was considered that Rossco's still held a current licence which could be relocated.
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Appellant: Jarrod True, True Legal
Philip Steele, Lion Foundation: National Operations Manager

Tabled item 1; PowerPoint presentation

Key points

- Council Gambling Venues Policy specifically allowed the relocation of existing sites.
- The Worlds End recipient site complied with zone requirements and held a current gambling licence.
- Clause 5.5 of the policy did not allow the operation of additional gaming machines within Tauranga City boundaries; this relocation would not result in any additional machines within the city boundaries.
- The existing Worlds End nine machine licence would be surrendered and replaced with the 18-machine licence, with the net result being a decrease by nine of gaming machines operating within the city.
- Council's policy aimed to control the growth of gambling in Tauranga City; the relocation to an existing site rather than a new site reduced the number of machines overall.
- There was an experienced operator at Worlds End, already trained in harm reduction.
- Considered the relocation wording in the policy reflected the wording of s97A of the Gambling Act.
- Relocation from an 18-machine site to a nine-machine site was not unprecedented. A Tauranga City Council decision on a similar relocation issue in relation to the Papamoa Tavern was tabled.
- Submitted that the reason the application was declined was council's interpretation of what constituted additional gaming machines, and, if the relocation was successful, there would be an overall reduction in the number of gambling machines in the city.

In response to questions

- Rossco's liquor licence renewal had been declined as the existing premises were no longer considered suitable.
 - Clarification was provided around the issue of the DIA licence. The appellant had applied to DIA to extend Rossco's existing licence; if DIA declined the extension there was an appeal process to the Gambling Commission. Consequently, the licence would be live for at least six to nine months.
 - Rossco's licence cancelled as the focus was on gambling rather than as a tavern; there was no concern that this would be the case at Worlds End.
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Council right of reply: Hemi Leef, Corporate Solicitor

Key points

- Noted that most of the facts were not in dispute; the issue was whether Worlds End could operate with 18 machines.
 - Considered that an increase in the number of gambling machines for an existing venue was contrary to the aim of Council's Gambling Venues Policy; and that CI 5.5 applied to individual venues as well as overall in the city.
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In response to questions

- A relocation to a completely new location that complied with zone requirements was more clear-cut in term of the policy; the 18 machines would be retained.
- The current case seemed similar to that in the Papamoa Tavern.
- No substantial difference between the relocation provisions in the old and new Gambling Venues policies.
- The current property met the circumstances for relocation in the Gambling Act in terms of earthquake risk and lease termination.

At 9.45am the meeting adjourned.

At 10.12am the meeting reconvened.

The Committee sought further clarification around the interpretation of Clause 5.5 of the policy.

Council: considered it applied to an increase in gambling machines at an individual venue and then in turn to an increase in the number of machines within the wider boundary of the city. A Class 4 venue could not increase the number of gambling machines at the venue.

Appellant: regard must be had to the plain wording of the clause – the clause did not say no additional machines “at a venue”, it stated “Class 4 Venues”. If the restriction was to apply for a particular venue, then that made the rest of the clause redundant. Considered that the appropriate interpretation was to the overall number of gaming machines within city boundaries. If there was ambiguity around a particular clause, then reference should be made to the purpose of the policy, being reduction of harm.

At 10.15am the meeting adjourned.

At 10.21am the meeting reconvened.

Decision

The Committee upheld the appeal; with a written decision to follow later.

COMMITTEE RESOLUTION RE1/20/1

Moved: Cr Steve Morris

Seconded: Cr John Robson

That the Regulatory Committee:

- (a) Upholds the appeal by the Lion Foundation 2008 in relation to the Gambling Venue Relocation Consent Application from Rossco’s Café and Bar, Wharf St, Tauranga to Worlds End, Fraser Cove, Tauranga

.CARRIED

The meeting closed at 10.22am.

The minutes of this meeting were confirmed at the Regulatory Committee meeting held on 21 July 2020 .

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CHAIRPERSON