



AGENDA

Strategy, Finance and Risk Committee meeting Monday, 13 November 2023

**I hereby give notice that a Strategy, Finance and Risk Committee
meeting will be held on:**

Date: Monday, 13 November 2023

Time: 9.30am

**Location: Bay of Plenty Regional Council Chambers
Regional House
1 Elizabeth Street
Tauranga**

*Please note that this meeting will be livestreamed and the recording will be publicly available on
Tauranga City Council's website: www.tauranga.govt.nz.*

**Marty Grenfell
Chief Executive**

Terms of reference – Strategy, Finance & Risk Committee

Membership

Chairperson	Commission Chair Anne Tolley
Deputy chairperson	Dr Wayne Beilby – Tangata Whenua representative
Members	Commissioner Shadrach Rolleston Commissioner Stephen Selwood Commissioner Bill Wasley Matire Duncan, Te Rangapū Mana Whenua o Tauranga Moana Chairperson Te Pio Kawe – Tangata Whenua representative Rohario Murray – Tangata Whenua representative Bruce Robertson – External appointee with finance and risk experience
Quorum	Five (5) members must be physically present, and at least three (3) commissioners and two (2) externally appointed members must be present.
Meeting frequency	Six weekly

Role

The role of the Strategy, Finance and Risk Committee (the Committee) is:

- to assist and advise the Council in discharging its responsibility and ownership of health and safety, risk management, internal control, financial management practices, frameworks and processes to ensure these are robust and appropriate to safeguard the Council's staff and its financial and non-financial assets;
- to consider strategic issues facing the city and develop a pathway for the future;
- to monitor progress on achievement of desired strategic outcomes;
- to review and determine the policy and bylaw framework that will assist in achieving the strategic priorities and outcomes for the Tauranga City Council.

Membership

The Committee will consist of:

- four commissioners with the Commission Chair appointed as the Chairperson of the Committee
- the Chairperson of Te Rangapū Mana Whenua o Tauranga Moana
- three tangata whenua representatives (recommended by Te Rangapū Mana Whenua o Tauranga Moana and appointed by Council)
- an independent external person with finance and risk experience appointed by the Council.

Voting Rights

The tangata whenua representatives and the independent external person have voting rights as do the Commissioners.

The Chairperson of Te Rangapu Mana Whenua o Tauranga Moana is an advisory position, without voting rights, designed to ensure mana whenua discussions are connected to the committee.

Committee's Scope and Responsibilities

A. STRATEGIC ISSUES

The Committee will consider strategic issues, options, community impact and explore opportunities for achieving outcomes through a partnership approach.

A1 – Strategic Issues

The Committee's responsibilities with regard to Strategic Issues are:

- Adopt an annual work programme of significant strategic issues and projects to be addressed. The work programme will be reviewed on a six-monthly basis.
- In respect of each issue/project on the work programme, and any additional matters as determined by the Committee:
 - Consider existing and future strategic context
 - Consider opportunities and possible options
 - Determine preferred direction and pathway forward and recommend to Council for inclusion into strategies, statutory documents (including City Plan) and plans.
- Consider and approve changes to service delivery arrangements arising from the service delivery reviews required under Local Government Act 2002 that are referred to the Committee by the Chief Executive.
- To take appropriate account of the principles of the Treaty of Waitangi.

A2 – Policy and Bylaws

The Committee's responsibilities with regard to Policy and Bylaws are:

- Develop, review and approve bylaws to be publicly consulted on, hear and deliberate on any submissions and recommend to Council the adoption of the final bylaw. (The Committee will recommend the adoption of a bylaw to the Council as the Council cannot delegate to a Committee the adoption of a bylaw.)
- Develop, review and approve policies including the ability to publicly consult, hear and deliberate on and adopt policies.

A3 – Monitoring of Strategic Outcomes and Long Term Plan and Annual Plan

The Committee's responsibilities with regard to monitoring of strategic outcomes and Long Term Plan and Annual Plan are:

- Reviewing and reporting on outcomes and action progress against the approved strategic direction. Determine any required review / refresh of strategic direction or action pathway.
- Reviewing and assessing progress in each of the six (6) key investment proposal areas within the 2021-2031 Long Term Plan.
- Reviewing the achievement of financial and non-financial performance measures against the approved Long Term Plan and Annual Plans.

B. FINANCE AND RISK

The Committee will review the effectiveness of the following to ensure these are robust and appropriate to safeguard the Council's financial and non-financial assets:

- Health and safety.
- Risk management.
- Significant projects and programmes of work focussing on the appropriate management of risk.
- Internal and external audit and assurance.
- Fraud, integrity and investigations.
- Monitoring of compliance with laws and regulations.
- Oversight of preparation of the Annual Report and other external financial reports required by statute.
- Oversee the relationship with the Council's Investment Advisors and Fund Managers.
- Oversee the relationship between the Council and its external auditor.
- Review the quarterly financial and non-financial reports to the Council.

B1 - Health and Safety

The Committee's responsibilities through regard to health and safety are:

- Reviewing the effectiveness of the health and safety policies and processes to ensure a healthy and safe workspace for representatives, staff, contractors, visitors and the public.
- Assisting the Commissioners to discharge their statutory roles as "Officers" in terms of the Health and Safety at Work Act 2015.

B2 - Risk Management

The Committee's responsibilities with regard to risk management are:

- Review, approve and monitor the implementation of the Risk Management Policy, including the Corporate Risk Register.
- Review and approve the Council's "risk appetite" statement.
- Review the effectiveness of risk management and internal control systems including all material financial, operational, compliance and other material controls. This includes legislative compliance, significant projects and programmes of work, and significant procurement.
- Review risk management reports identifying new and/or emerging risks and any subsequent changes to the "Tier One" register.

B3 - Internal Audit

The Committee's responsibilities with regard to the Internal Audit are:

- Review and approve the Internal Audit Charter to confirm the authority, independence and scope of the Internal Audit function. The Internal Audit Charter may be reviewed at other times and as required.
- Review and approve annually and monitor the implementation of the Internal Audit Plan.
- Review the co-ordination between the risk and internal audit functions, including the integration of the Council's risk profile with the Internal Audit programme. This includes assurance over all material financial, operational, compliance and other material controls. This includes legislative compliance (including Health and Safety), significant projects and programmes of work and significant procurement.
- Review the reports of the Internal Audit functions dealing with findings, conclusions and recommendations.

- Review and monitor management's responsiveness to the findings and recommendations and enquire into the reasons that any recommendation is not acted upon.

B4 - External Audit

The Committee's responsibilities with regard to the External Audit are:

- Review with the external auditor, before the audit commences, the areas of audit focus and audit plan.
- Review with the external auditors, representations required by commissioners and senior management, including representations as to the fraud and integrity control environment.
- Recommend adoption of external accountability documents (LTP and annual report) to the Council.
- Review the external auditors, management letter and management responses and inquire into reasons for any recommendations not acted upon.
- Where required, the Chair may ask a senior representative of the Office of the Auditor General (OAG) to attend the Committee meetings to discuss the OAG's plans, findings and other matters of mutual interest.
- Recommend to the Office of the Auditor General the decision either to publicly tender the external audit or to continue with the existing provider for a further three-year term.

B5 - Fraud and Integrity

The Committee's responsibilities with regard to Fraud and Integrity are:

- Review and provide advice on the Fraud Prevention and Management Policy.
- Review, adopt and monitor the Protected Disclosures Policy.
- Review and monitor policy and process to manage conflicts of interest amongst commissioners, tangata whenua representatives, external representatives appointed to council committees or advisory boards, management, staff, consultants and contractors.
- Review reports from Internal Audit, external audit and management related to protected disclosures, ethics, bribery and fraud related incidents.
- Review and monitor policy and processes to manage responsibilities under the Local Government Official Information and Meetings Act 1987 and the Privacy Act 2020 and any actions from the Office of the Ombudsman's report.

B6 - Statutory Reporting

The Committee's responsibilities with regard to Statutory Reporting relate to reviewing and monitoring the integrity of the Annual Report and recommending to the Council for adoption the statutory financial statements and any other formal announcements relating to the Council's financial performance, focusing particularly on:

- Compliance with, and the appropriate application of, relevant accounting policies, practices and accounting standards.
- Compliance with applicable legal requirements relevant to statutory reporting.
- The consistency of application of accounting policies, across reporting periods.
- Changes to accounting policies and practices that may affect the way that accounts are presented.
- Any decisions involving significant judgement, estimation or uncertainty.
- The extent to which financial statements are affected by any unusual transactions and the manner in which they are disclosed.
- The disclosure of contingent liabilities and contingent assets.
- The basis for the adoption of the going concern assumption.

- Significant adjustments resulting from the audit.

Power to Act

- To make all decisions necessary to fulfil the role, scope and responsibilities of the Committee subject to the limitations imposed.
- To establish sub-committees, working parties and forums as required.
- This Committee has **not** been delegated any responsibilities, duties or powers that the Local Government Act 2002, or any other Act, expressly provides the Council may not delegate. For the avoidance of doubt, this Committee has **not** been delegated the power to:
 - o make a rate;
 - o make a bylaw;
 - o borrow money, or purchase or dispose of assets, other than in accordance with the Long-Term Plan (LTP);
 - o adopt the LTP or Annual Plan;
 - o adopt the Annual Report;
 - o adopt any policies required to be adopted and consulted on in association with the LTP or developed for the purpose of the local governance statement;
 - o adopt a remuneration and employment policy;
 - o appoint a chief executive.

Power to Recommend

To Council and/or any standing committee as it deems appropriate.

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- 1 OPENING KARAKIA**
- 2 APOLOGIES**
- 3 PUBLIC FORUM**
- 4 ACCEPTANCE OF LATE ITEMS**
- 5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN**
- 6 CHANGE TO ORDER OF BUSINESS**
- 7 DECLARATION OF CONFLICTS OF INTEREST**

8 BUSINESS

8.1 Submitters who wish to be heard

File Number: A15262183

Author: Vicky Grant-Ussher, Policy Analyst

Authoriser: Jeremy Boase, Manager: Strategy and Corporate Planning

PURPOSE OF THE REPORT

1. This report provides the submissions of those submitters who wish to be heard for ease of administration. The report also provides the demographic information from those submitters who provided this information.

RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the report "Submitters who wish to be heard".




BACKGROUND

2. From 4 October 2023 to 4 November 2023 the council consulted on the review of the Gambling Venues and Street Use Policies and the Traffic and Parking Bylaw. Today the Strategy, Finance and Risk Committee are hearing those submitters who wish to speak to their submission on some, or all, of these reviews.
3. Attachment One provides a copy of the submissions from those submitters who would like to speak to the committee today for the ease of administration.
4. You may wish to refer to the full report for each policy or bylaw review to see the submissions in the context of the other submissions received.
5. Attachment Two provides a summary of the demographic information from those submitters who provided this information.

NEXT STEPS

6. Following consideration of the written and verbal submissions, the committee will deliberate on the policy on 4 December 2023.

ATTACHMENTS

1. **Speakers' Submissions - A15276314**  
2. **Demographic Information - A15275785 (Separate Attachments 2)** 

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Speaker One

Name: Qadmiel Edmonds

Organisation: The Salvation Army Oasis

Subject: Gambling Venues Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly disagree

Can you share with us why you gave this answer?

See attached

Attached Submission

Yes



The Salvation Army Oasis – Tauranga

Submission to

Tauranga City Council

on the

Review of CLASS 4 Gambling & TAB Venues Policy 2023

Authorisation statement:

“This submission has been authorised by the National Operations Manager – Oasis within the Addiction, Supportive Accommodation and Reintegration Services of The Salvation Army.”

Please contact

Qadmiel Edmonds
Public Health Worker



SUBMISSION: *Salvation Army Oasis Tauranga* to Tauranga City Council

November 2023

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1 BACKGROUND

1.1 The Salvation Army is an international faith-based social services organisation that has worked in Aotearoa New Zealand for one hundred and forty years. The Army provides a wide range of social, community and faith-based services, particularly for those who are marginalised by mainstream society.

1.2 The Salvation Army Oasis was formally established in June 1997 in Auckland, in response to growing evidence that the influx of gambling opportunities was having a negative social impact on society. The numbers of clients seeking help for gambling-related harm have increased significantly since then. The Salvation Army Oasis gambling harm services have expanded to seven regions with satellite clinics across the country. We are funded by Te Whatu Ora to provide gambling harm related clinical and public health services.

1.3 The Salvation Army Oasis is a well-established specialist service that has worked towards reducing petipeti whakararu (gambling harm) in Aotearoa New Zealand for over 25 years. Our free and confidential service is delivered by a team of qualified and diverse health professionals, who utilise evidence-based approaches, to support and empower individuals, whanau, and communities to develop healthy and fulfilling lifestyles and communities, free from gambling harm.

1.4 Our Public Health team use a wide population approach, working with communities, health and social services, the gambling industry and government departments to promote positive social and systemic change to prevent and reduce gambling harm and associated inequities. This includes influencing change at a national and local level.

1.5 The wrap-around support offered by The Salvation Army Oasis includes support from those who have lived experience of overcoming adversity and gambling harm in their lives. This team are passionate about improving the services that Oasis have to offer.

1.6 We are also supported by our regional Pou Ārahi / Māori Health & Wellbeing Advisors. They provide cultural leadership to support the development of Tiriti-based policies and practices focussed on the wellbeing and flourishing of tāngata whaiora, and provide tikanga Māori support to Oasis, alongside developing relationships with iwi/hapū/Marae/ and other Māori organisations of the region.

1.7 This submission has been prepared by The Salvation Army Oasis Tauranga

2 Gambling Harm

2.1 Salvation Army Oasis engagement with gambling policy: We have persistently engaged with Government around gambling related harm. We continue to contend that one of the key focuses of the Gambling Act 2003 should be, as per section 3(b) of the Act, to *prevent and minimise the harm from gambling*. This should continue to be by territorial authorities as a guide in local decision-making. We submit that the Government and local Councils should make harm reduction a key focus of all gambling policy reforms they undertake.

2.2 Gambling Harm in society: As a provider of services to those affected by gambling harm, The Salvation Army sees the detrimental effects that harmful gambling has on the wellbeing of communities around New Zealand. Our observations are supported by a wealth of New Zealand research which indicates that the range of potential harms from gambling spans multiple domains of individual, whānau, and community wellbeing, including mental, physical, spiritual, whānau, community, and financial wellbeing as well as employment and productivity, quality of life and social cohesion.¹ While recent estimates of the prevalence of harmful gambling vary widely, it is likely that between three and eight percent of adult New Zealanders are currently placed at risk by their gambling.² This would equate to between 4,102 and 10,937 (estimated population of **136,717** based on the last census of 2018, however, based on 2023 estimated Tauranga city population it sits nearer to 161,800, equating to an additional 750 -2,000 likely to be at risk of gambling harm)^{14 15}. There is the probability of a further eight percent (10,937±2,000) family and whanau that are also harmed by a person's gambling.³ Policy remains one of the most effective means of addressing this risk.

2.3 Class 4 Gambling: The Salvation Army Oasis is particularly concerned with Class 4 gambling machines, also known as non-casino gaming machines (NCGMs), as most of the harm observed in New Zealand is from this form of gambling.⁴ Class 4 gambling machines is still the most accessible mode of gambling in New Zealand , with 1,015 venues nationwide hosting 14,374 machines according to DIA report in June 2023.⁵ While a few practices are required to minimise and prevent gambling harm, one of the best-supported strategies is to limit access to gaming machines.⁶

2.4 Harmful Gambling: Problematic gambling prevalence rates are much higher among those who participate in continuous forms of gambling like NCGM (Pokie) machines, with up to 30 percent of players experiencing severe harm. In New Zealand, around one in five people

who play gaming machines regularly are likely to be problem gamblers.⁷ It is highly likely that there are people experiencing harm within most Class 4 venues of New Zealand, including those in Tauranga City. In our experience, many people can become addicted to gaming machines if they play them regularly.

2.5 Te Tiriti o Waitangi: Gambling addiction can be found across all groups in society, but it is those groups at the lower end of the socioeconomic spectrum that suffer most. As Māori are over-represented in the lower socio-economic groupings, this is a direct breach of article three of Te Tiriti o Waitangi which requires the Crown to promote equity between tāngata whaiora and other citizens of Aotearoa New Zealand.⁸ This is highlighted even more for Tauranga City as Māori comprise 18% of the city's population, compared to the national average of 16.5%. Other groups most likely to be in poverty and hardship include women, sole-parent families, Pacific peoples, refugees, people living with disability or illness, beneficiaries, and people in low-paid employment.⁹ Continued failure to address and respond to these inequities is unjust and constitutes a violation of Te Tiriti o Waitangi.

2.6 Social Equity: The Salvation Army Oasis believes that the values of justice, fairness, community stability and safety are paramount in our community. Class 4 gambling has contributed to an increase in disparity between the richest and poorest members of the population. The disparities establish and create poverty, which is associated with the increasing number of people accessing Salvation Army services. We believe making a profit based on the losses of those impacted by harmful gambling and the exploitation of vulnerable people is unjust.

2.7 Unsustainable Funding Model: The Salvation Army maintains that the Class 4 funding model is neither sustainable in the long term, nor favourable in the short term for New Zealand communities. where social services can become reliant on funding from the very whānau and communities they are trying to support to wellbeing.¹⁰

2.8 TABs: As discussed above, reducing the availability of gambling products is a key measure to reduce harm from gambling at the population level, and this applies to TAB products as well as gaming machines. There is less available data on TAB venues and their impact on communities, besides national expenditure (and much less regionally specific data). The Health and Lifestyles Survey indicates that about 10 percent of New Zealanders participated in horse or dog race betting in the past 12 months.¹¹

3 Tauranga City Position

3.1 Tauranga has seen a decrease of 2 venues and 28 gaming machines since March 2023 remaining relatively stable since the implementation of the current policy in 2019, bringing the current number of venues down from 34 to 32 and number of machines down from 497 to 469. Of the 32 venues nearly a third of the existing Class 4 venues are located in areas of very high deprivation (decile 8-10) and the other two thirds located in medium to high deprivation ratings (decile 5-8). Accessibility is further enhanced by Tauranga City's small geographic footprint and good public transport networks. Tauranga City residents also enjoy relatively easy access to gambling venues in nearby urban centres within the Western Bay of Plenty District.

3.2 The Current policy for Class 4 Gambling and Tab venues is a sinking lid which was adopted by the council in 2019. Under the current Policy, relocated venues are restricted to being located more than 100m away from residential zones with a deprivation index of 8,9, or 10, as measured on the NZDep 2013. The implementation of the sinking lid in the 2019 policy influenced a small reduction of the overall gaming machine numbers in Tauranga, obviously effected on the decrease of 2 venues and 28 machine in March 2023. Nevertheless, additional data indicates that the decrease has not been significant enough to lessen harmful gambling within the city.

3.3 The Tauranga City population forecast has already seen a 25,000 increase from 156,717 people in 2018 to an estimate of 161,800 people in 2023.^{13 14} And it has further been forecasted that by 2048 Tauranga city population will increase to between 207,400 and 234,600 people, a total increase from the 2023 estimate between 45,600 and 72,800 people.¹⁵ When taking into consideration that Tauranga has a higher majority Māori population than the national average, sitting at 18% compared to 16.5%, and based on the fact that Māori are 3.13 times more likely to be moderate-risk or problem gamblers than non-Māori raises some concern.

3.4 According to the Department of Internal Affairs report in June 2023, spending per machine in Tauranga for the June 2023 quarter was over twenty-one thousand (\$21,661)¹². The Class 4 Gambling Losses for Tauranga in 2022 were over 40 million dollars (\$41,017,827.59).¹² Of this only \$12,553,534.00 (29%) was returned to Tauranga district in grants^{12 13}. Which means that roughly 29 million dollars (71%) leaves the Tauranga district community and used to operate

the venues and societies. The majority of this money is likely coming from the most vulnerable communities within high deprivation areas, and a significant loss to the Tauranga district community.

3.5 There are currently two gambling harm services located in Tauranga (PGF and The Salvation Army Oasis), however, neither of the two services have fulltime staff. The Salvation Army Oasis have the service operational for 3 days a week and PGF 1 day. The nearest location for additional services outside of specified times would be either Rotorua for PGF and other Gambling Harm services in Hamilton for PGF, The Salvation Army and Kaute Pasifika and Te Kohao Health.

4 Submission

4.1 The Salvation Army Oasis – Tauranga does not believe that the proposed policy does enough to counter the serious problem of gambling-related harm in Tauranga City. We do not support the proposed changes as the ability to relocate with limited restrictions does not support a **true sinking lid policy**, both for Class 4 machines and TABs as venue and machine numbers slowly decline over time. It also means that a venue cannot be placed into a medium to high deprivation area that may result in more potential for harm for vulnerable communities.

5 Conclusion

5.1 We do not support the council's proposal to remove restrictions on relocations for both Class 4 and Tab Venues. We prefer a no relocations sinking lid policy or retain the current policy.

5.2 In making this submission we are advocating on behalf of our clients, their families and whanau and the wider community that we engage with. We believe there is a need for Class 4 gambling machines and TABs to be significantly regulated due to the level of associated harm. We acknowledge the Tauranga City Council's inclusion of The Salvation Army Oasis in this process.

¹ Bellringer, M. E., Janicot, S., Ikeda, T., Lowe, G., Garrett, N., & Abbott, M. (2020). New Zealand National Gambling Study: Correspondence between changes in gambling and gambling risk levels and health, quality of

life, and health and social inequities. NGS series report number 9. Auckland: Auckland University of Technology, Gambling and Addictions Research Centre

² Rossen (2015) [Prevalence rate among those aged 15 and older]; Abbott, M., Bellringer, M., Garrett, N., & MundyMcPherson, S. (2014). New Zealand 2012 National Gambling Study: Gambling Harm and Problem Gambling – Report

³ Palmer du Preez, K., Lowe, G., Mauchline, L.R., Janicot, S., Henry, N., Garrett, N., & Landon, J. (2020). Enhancing support provided to family and affected others in New Zealand gambling services: An exploratory mixed methods study. Auckland: Auckland University of Technology, Gambling and Addictions Research Centre.

⁴ Rossen (2015).

⁵ Department of Internal Affairs. (2023). Gaming Machine Profits (GMP) Quarterly Dashboard June 2023. Retrieved from <https://catalogue.data.govt.nz/dataset/4df114b8-5995-49e3-85df-185c7a30cf12/resource/60081bcd-f2ae-4b97-8a9ffe449fa59969/download/gmp-quarterly-dashboard-june-2023.xlsx>

⁶ Pearce, J., Mason, K., Hiscock, R., & Day, P. (2008). A national study of neighbourhood access to gambling opportunities and individual gambling behaviour. *Journal of Epidemiology & Community Health*, 62(10), pp. 862-868; Vasiliadis, S. D., Jackson, A. C., Christensen, D. & Francis, K. (2013). Physical accessibility of gaming opportunity and its relationship to gaming involvement and problem gambling: A systematic review. *Journal of Gambling Issues*, 28.

⁷ Department of Internal Affairs (2008). Problem Gambling in New Zealand – a brief summary. Retrieved from [https://www.dia.govt.nz/pubforms.nsf/URL/ProblemGamblingFactsFinal.pdf/\\$file/ProblemGamblingFactsFinal.pdf](https://www.dia.govt.nz/pubforms.nsf/URL/ProblemGamblingFactsFinal.pdf/$file/ProblemGamblingFactsFinal.pdf).

⁸ Manatu Hauora (2019). Treaty of Waitangi Principles. Retrieved from Treaty of Waitangi principles | Ministry of Health NZ

⁹ Centre for Social and Health et al. (2008); Centre for Social and Health at al. (2010); Abbott, et al. (2014).

¹⁰ Salvation Army, PGF Services and Hapai Te Hauora (2020). Ending community sector dependence on pokie funding White Paper.

¹¹ Thimasarn-Anwar, T., Squire, H., Trowland, H. & Martin, G. (2017). Gambling report: Results from the 2016 Health and Lifestyles Survey. Wellington: Health Promotion Agency Research and Evaluation Unit.

¹² Department of Internal Affairs (June 2023). Gaming machine profits. Retrieved from: Gaming Machine Profits (GMP) Dashboard - Quarterly GMP Dashboard Statistics (CSV machine readable) - data.govt.nz - discover and use data

¹³ [Granted.govt.nz](https://granted.govt.nz)

¹⁴ [Stats.govt.nz](https://stats.govt.nz)

¹⁵ Informetrics Retrieved From: <https://ecoprofile.infometrics.co.nz/Tauranga%20City/Population/Growth>

¹⁶ figure.nz Retrieved from: <https://figure.nz/chart/CLaMLJ4sqPsSQMCU-V4jsPpkqm2R4fjca>

Speaker Two**Name:** Luke van Veen**Organisation:** Hospitality New Zealand**Subject:** Gambling Venues Policy, Street Use Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly agree

Can you share with us why you gave this answer?

Submission attached

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Disagree

Can you share with us why you gave this answer?

Submission attached

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Disagree

Can you share with us why you gave this answer?

Submission attached

Is there anything else you think we should consider if we put this policy in place?

Submission attached

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Don't know/unsure

Could you share with us why you gave this answer?

Attached Submission

Yes



Hospitality New Zealand

TO Tauranga City Council

SUBMISSION ON GAMBLING VENUES AND STREET USE POLICIES.

November 2023

CONTACT DETAILS: Hospitality New Zealand
Luke van Veen



www.hospitality.org.nz

About Hospitality New Zealand:

1. Hospitality New Zealand ("Hospitality NZ") is a member-led, not-for-profit organisation representing around 2,500 businesses, including cafés, restaurants, bars, nightclubs, commercial accommodation, country hotels and off-licences.
2. Hospitality NZ has a 121-year history of advocating on behalf of the hospitality and tourism sector. We work tirelessly on behalf of our members to promote the industry, partner with government to prevent restrictive legislation, protect commercial interests and to spearhead innovation for a sustainable future.
3. As the voice of the industry, we seek to unlock hospitality's full potential as a significant engine for growth in the New Zealand economy and to ensure that the industry's needs are represented by engaging with the Government and wider industry.
4. This submission relates to the Gambling Venues and Street Use Policies.
5. Enquiries relating to this submission should be referred to Luke van Veen, Regional Manager – Central North Island, at [REDACTED].

General Comments:

6. Hospitality New Zealand welcomes the opportunity to comment on the Tauranga City Council's gambling venues and street use policies.

Gambling Venue Policies

7. Hospitality New Zealand supports and agrees with The Gaming Machine Association of New Zealand's (GMANZ) submission around the relocation provision being expanded to allow council to consider relocations in any circumstances when the new site is more desirable from a harm minimisation perspective. This would allow venues to move to lower deprivation areas and away from residential areas/sensitive sites.
8. Hospitality New Zealand supports updating the proposed maps clearly indicating areas available for venue relocation

Street Use Policies

9. While Hospitality NZ appreciates the proposed "**Clause 6. Licence to Occupy the Street**" and its intent, much of what the clause proposes will have a negative effect on majority of our hospitality operators in these areas, through overregulation and unnecessary cost structure increases from the policies outlined.
10. We challenge the proposed month-to-month issuing of street use licenses. Such a regime seems structured to allow the Council to clip the ticket regularly, rather than encouraging open-air dining environments. Month-to-month issuing does not give operators certainty they

can use a space year-round (and therefore that it is worth investing in their outdoor fitout, and adds a time and cost burden.

11. Regarding the suggestion of operators 'promoting smoke and vape free areas', operators need clarity on what meets Council expectations of 'promoting'. If the intent is to ban smoking or vaping, that should be stated clearly, not inferred. Operators shouldn't be held accountable for individual actions, and we do not want to set up operators to lose their right to operate in the street if a customer is found to be vaping or smoking. Additionally, time of day should be considered, as late-night entertainment spaces will be impacted with smoking/vaping regulations.
12. Clause 6.6 outlines what factors may influence the licensing fees for those looking to attain a street use license. This should be formalised in a fee schedule rather than left to subjective measures as outlined.
13. Regarding "**7. Lease of airspace above streets**" the suggestion of a 75% fee for this area will again have a negative effect on operators. This area is presently accounted for in their leases and an increased fee charged to landlords will simply be passed on. Hospitality New Zealand objects to this policy change. If the Council proceeds, then any changes should be grandfathered to allow any increased charges to be accounted for under new lease arrangements without impacting existing ones.

Conclusion:

14. We thank the Tauranga City Council for the opportunity to provide input into the consultation of the Gambling Venues and Street Use Policies.
15. We would be happy to discuss any parts of this submission in more detail, and to provide any assistance that may be required.

Speaker Three**Name:** Karmen McGrath**Organisation:** Grassroots Trust Limited**Subject:** Gambling Venues Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly agree

Can you share with us why you gave this answer?

The current relocation provisions in Tauranga City Council's Gambling Venues Policy are too restrictive and leaves limited options for relocations to be considered. Council should remove the current criteria in the policy and allow venue relocations to occur.

Venue relocations should be considered by Councils as a positive move. Often such relocations are to newer, modern, and more vibrant premises that create a positive entertainment precinct, supporting the local economy and encouraging tourism to the area. Restricting the options to relocate venues only entrenches venue operators in premises that may be a health and safety risk. Permitting venues to relocate will also have harm minimisation benefits such as relocating venues from high deprivation areas to low deprivation areas, assisting to minimise risk of gambling harm.

The population of Tauranga City continues to grow at a rapid rate. This only means that as the population increases, there is a need for further investment in infrastructure, homes, and in general the Tauranga communities. As a coastal location that attracts and offers a number of options for tourism, accommodation, and hospitality; Council should also be considering the effect of the changing landscape of which this policy leans on.

There are many new vibrant communities opening up within Tauranga City, and within these communities' new hospitality venues are opening their doors and cannot obtain council approval to operate gaming machines due to the zonal restrictions currently applied within the current policy. These new locations are new, vibrant, modern and are not areas of high deprivation. We therefore support Council's proposal to update the maps for Tauranga City, as indicated in this survey.

Attached Submission

No

Speaker Four**Name:** Kim Ort**Organisation:** DOCA**Subject:** Gambling Venues Policy, Street Use Policy, Traffic and Parking Bylaw

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly agree

Can you share with us why you gave this answer?

Gambling venues benefit the community greatly by funds flowing back into community and sports groups

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Strongly agree

Can you share with us why you gave this answer?

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Strongly disagree

Can you share with us why you gave this answer?

Venues should be able to choose their own policy based on the patrons they attract/ want to attract. People who don't like smoking tend not to go to a pub, they are not the right customers for those venues.

Is there anything else you think we should consider if we put this policy in place?

The impact commercially on these venues and making town even more dead at night if you introduce an outdoor smoke free policy. You will literally move entertaining to people's homes only. Even in a group of friends there may be one smoker or caper and that drives the group to sit outside. If people can't vape/ smoke they will stop not just them going out but friends as well and stay at home and have bbqs/ house parties

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Strongly agree

Could you share with us why you gave this answer?

Do you think we should make it clear that council permission is required to create a second driveway?

Strongly agree

Do you have any other thoughts on clarifying this rule about second driveways that you want to share?

It should always be standard. I'm amazed it's not already

Do you think we should add an option in the bylaw for drivers to potentially provide their registration number for free, timed car parks?

Strongly agree

Do you have any other comments you would like to provide on this suggested parking management tool?

We have asked for this already in Tauranga town

Attached Submission

No

Speaker Five

Name: Martin Cheer

Organisation: Pub Charity Limited

Subject: Gambling Venues Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly agree

Can you share with us why you gave this answer?

If the Council seeks to have gambling venues relocate to more desirable locations the commercial value of the licence to the business owner must be realised and a supportive policy be put in place.

Attached Submission

No

Speaker Six

Name: Jarrod True

Organisation: Gaming Machine Association of New Zealand

Subject: Gambling Venues Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly agree

Can you share with us why you gave this answer?

See Submission

Attached Submission

Yes

The Gaming Machine Association of New Zealand's Submission on Tauranga City Council's Gambling Venue Policy

Introduction

1. The Gaming Machine Association of New Zealand ("the Association") represents the vast majority of the gaming machine societies that operate in New Zealand. The Association wishes to provide the Tauranga City Council with pertinent information regarding gaming machine gambling to help council to make a balanced, evidence-based decision.

Summary

2. The Association supports the relocation provision being expanded to allow council to consider relocations in any circumstances when the new site is more desirable from a harm minimisation perspective. This would allow venues to move to lower deprivation areas and away from residential areas/sensitive sites. This is currently only allowed when the venue cannot continue to operate at the existing site due to a natural disaster, fire, public works acquisition or when the venue is earthquake-prone or has had its lease expire. We should not have to wait for a catastrophic event to move a venue to a more desirable location.

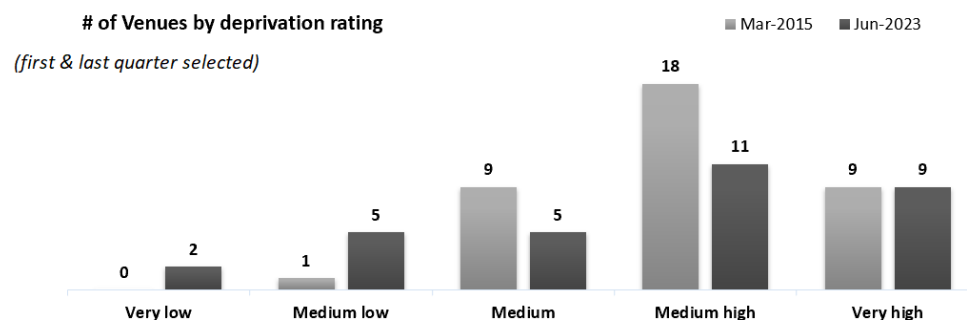
Expanding the Relocation Provision

3. In September 2013, Parliament recognised the merit in enabling venues to relocate, and expressly amended the Gambling Act 2003 to enable venues to relocate and retain the same number of machines when a relocation consent was obtained.
4. The amendment was not made to help venues who found themselves needing to move due to circumstances beyond their control. The amendment was made to encourage and facilitate venues to move from undesirable locations to more desirable locations. In the in committee reading of the Gambling (Gambling Harm Reduction) Amendment Bill (the Bill that led to the enactment of section 97A), the Bill's sponsor, Te Ururoa Flavell, stated¹:

The Government... wanted to allow venues, with permission from territorial authorities, to move their pokie machines out of harm's way—perhaps to central business districts...

5. Venue relocation is a harm minimisation tool.
6. Currently 63% of the venues in Tauranga are in very high or medium high deprivation areas:

¹ https://www.parliament.nz/en/pb/hansard-debates/rhr/document/50HansD_20130807_00000040/gambling-gambling-harm-reduction-amendment-bill-in



7. If a venue wishes to relocate out of a high deprivation area to a lower deprivation area, the policy should permit this. There is no good policy reason for taking steps to restrict this option. Restricting the option to relocate simply entrenches venues in high deprivation locations.
8. If a venue wishes to relocate out of a suburban/residential area to a more suitable area, such as a central business district, the policy should permit this. There is no good policy reason for taking steps to restrict this option. Restricting the option to relocate simply entrenches venues in undesirable residential locations.
9. The relocation provision should not be limited to circumstances where the venue cannot continue to operate at the existing site: i.e., relocation should not be limited to cases where there has been a fire or natural disaster. **We should not have to wait for a fire or earthquake to move machines from undesirable areas to more desirable areas. We should seize every such opportunity and promptly facilitate it.**
10. The relocation policy should also be flexible enough to support businesses that wish to move to new, modern, refurbished premises. Allowing local businesses to upgrade their premises and provide a more modern, attractive offering to the public helps to revitalise business districts, improves the local economy and encourages tourism.
11. The first venue to relocate under the amendments made to the Gambling Act 2003 was the Te Rapa Tavern in Hamilton. The photos below show the old rundown premises and the new modern premises. The redevelopment cost \$3,000,000.



The old Te Rapa Tavern



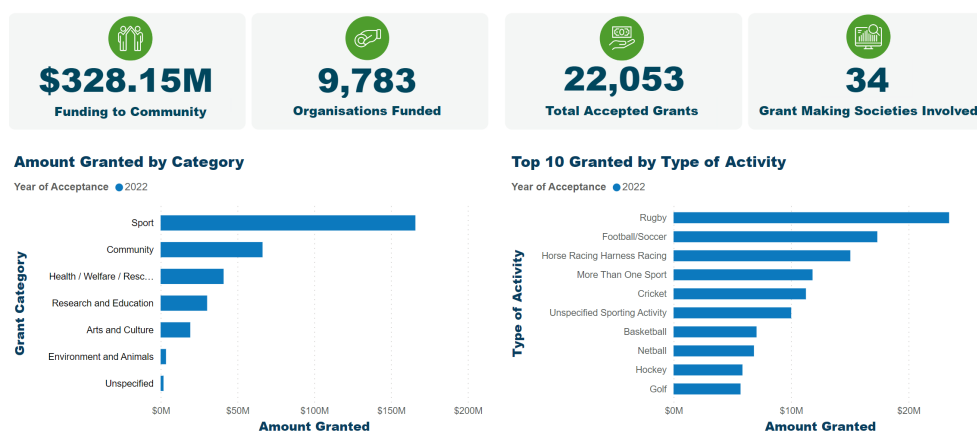
The new Te Rapa Tavern

12. The relocation policy should enable venues to move to smaller, more suitable premises. Enabling venues to move away from large premises, with large car parking areas, to newer, smaller premises also has the advantage of freeing up large areas of land, which may be better used for affordable high-density housing.
13. The relocation policy should continue to enable venues to move out of earthquake-prone buildings to stronger, more modern buildings. This is a health and safety issue.
14. It would also be reasonable to also allow venues to relocate when the move is due to onerous rental sums or lease terms being imposed. Currently, once a venue has obtained a licence to host gaming machines its value is artificially increased. This often leads to landlords demanding higher than normal rentals. Allowing more flexible relocation prevents landlords demanding unreasonable rentals as it gives the venue operator the ability to relocate to an alternative venue.

Gaming Machine Funding

15. The Gambling Act 2003 seeks to balance the potential harm from gambling against the benefits of using gaming machines as a mechanism for community fundraising.
16. In 2022, approximately \$328m of grant funding was approved across 22,053 grants to 9,783 different organisations.² In addition, over \$50m was applied by various RSAs and Workingmen's Clubs to support their own activities. Of the grants distributed in 2022, 51% were sports-related. The second most popular category was community (20%). This funding is crucial.

² <https://granted.govt.nz/dashboard.html>

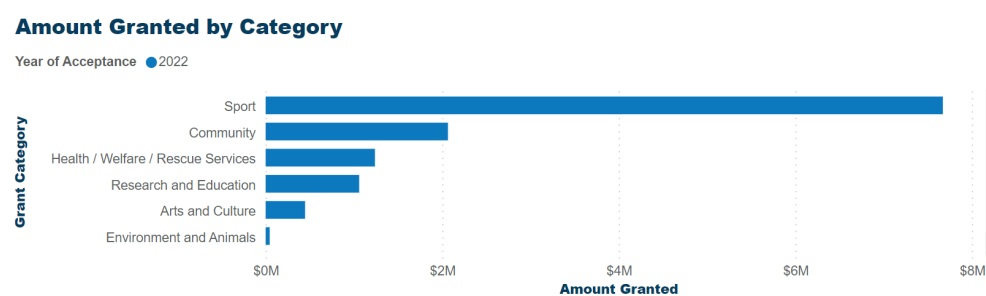


17. The local benefit from the gaming machine funding includes the following:

- External grants made to local community groups;
- External grants made to national and regional organisations that provide services and support locally; and
- Gaming profits used by local club venues to fund the upkeep of their clubrooms and to provide sporting and recreational facilities to their members.

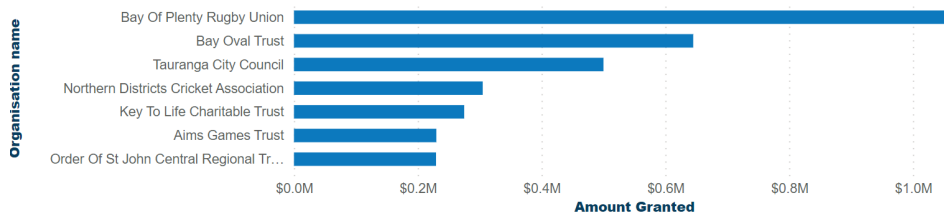
External Grants

18. The amount of grants made to Tauranga City-based organisations is posted on the granted.govt.nz website. In 2022, grants totalling **\$12,553,534.00** were made.



Amount Granted by Organisation

Year of Acceptance ● 2022



Grants to National and Regional Organisations

19. Approximately 6% of all grants are made to national and regional organisations.

Club Authorised Purpose Payments

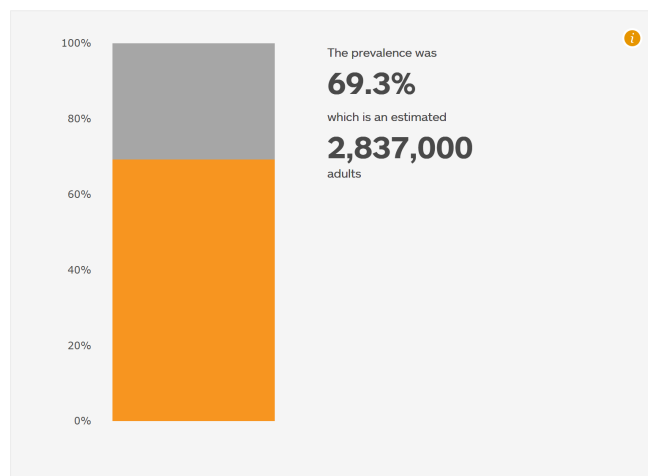
20. Four of the 32 venues that operate gaming in Tauranga are clubs:
- Tauranga Returned and Services Association – 18 gaming machines.
 - Tauranga Citizens Club – 18 gaming machines.
 - Club Mount Maunganui – 18 gaming machines.
 - Mount Maunganui Returned Services Association – 18 gaming machines.
21. The gaming machine proceeds are used by these clubs to benefit the very members who play the machines. All the profits remain within the local economy. Clubs are required to publish their accounts on the Incorporated Societies website or the Friendly Societies website. The accounts set out the gross gaming revenue, the gaming profits, and how the profits are allocated.
22. By way of example, in the year ended 31 March 2023, the Club Mount Maunganui made a profit of \$680,460.00 from its gaming machines. This money was used to support the club's various adjuncts (bowling, dancing, fishing etc.) and used for repairs and maintenance to the clubrooms, rates, and other non-bar-related operational costs.

Gambling is an Enjoyable Activity

23. Gambling is a popular form of entertainment that most New Zealanders participate in. The 2020 Health and Lifestyles Survey³ found that 69.3% of adult New Zealanders had participated in some form of gambling in the previous 12 months (estimated to be 2,837,000 New Zealanders aged 16 and over).

³ <https://kupe.healthpromotion.govt.nz/#!/gambling/gambling-participation>

2020 Health and Lifestyles Survey



24. The majority of people who gamble do so because they find it an enjoyable activity. This is observed by Suits (1979, p. 155)⁴, who states:

Gambling is a recreational activity or a kind of participation sport from which the principal satisfaction derives from the activity itself and from the ebb and flow of wins and losses rather than from ultimate outcome - the net amount won or lost. For most gamblers, the purpose of gambling is not to get rich, but to "have fun," to experience "excitement," or to have "something to look forward to," and they view payment for this recreation in the same light as others look on outlays for theatre tickets, vacation trips, or a night on the town.

25. Gambling for the non-addicted gambler may also be an avenue for socialising, stress relief and a way of having fun. Contrary to how it may appear from a non-gambler's perspective, gamblers do not necessarily anticipate they will make money from gambling. Parke (2015)⁵ states:

Players mostly realise that they are paying for a leisure experience. They are not expecting to be paid, except for a small minority, who are going to earn an income as a professional gambler.

Positive Wellbeing Impact from Gambling in New Zealand

26. The 2021 TDB Advisory report, Gambling in New Zealand: A National Wellbeing Analysis⁶, found that gambling in New Zealand had a net positive wellbeing benefit totalling around \$1.74b to \$2.16b per annum.

4 Suits, D. (1979). The Elasticity of Demand for Gambling. The Quarterly Journal of Economics, 93(1), 155–162. <https://doi.org/10.2307/1882605>

5 Parke, J. (2015). Gambling, leisure and pleasure: Exploring psychosocial need satisfaction in gambling. Presentation at the KPMG eGaming summit. <https://assets.kpmg/content/dam/kpmg/pdf/2016/07/im-esummit-report-2015.pdf>.

6 https://www.gamblinglaw.co.nz/download/Gambling_in_New_Zealand.pdf



Revenue Breakdown

27. The return to players on a non-casino gaming machine is required to be set between 78% and 92%, with most being set at 91.5%. On average, for every \$1.00 gambled, 91.5 cents are returned to the player in winnings. The money retained is typically allocated as follows:

Typical Distribution of Gaming Machine Profits

	GST Inclusive	GST Exclusive
Government Duty	20%	23%
GST	13.04%	0
Problem Gambling Levy	1.08%	1.23%
DIA Costs	2.9%	3.33%
Gaming Machine Depreciation	6.95%	8%
Repairs & Maintenance	2.84%	3.27%
Venue Costs	13.9%	16%
Society Costs	1.74%	2%
Donations	37.53%	43.16%

Gaming Machines – Key Facts

28. Gaming machines have been present in New Zealand communities since the early 1980s. Initially the machines were operated without a gaming licence. The first gaming licence was issued to Pub Charity on 25 March 1988, over 35 years ago.
29. Gaming machine numbers are in natural decline. In 2003, New Zealand had 25,221 gaming machines. In June 2023, New Zealand had 14,374 gaming machines.

30. The proceeds from non-casino gaming machines increased 3.1% from \$895 million in 2018 to \$924 million in 2019. However, after adjusting for both inflation and changes in the adult population, expenditure on non-casino gaming machines is declining (\$242 per person in both 2015/16 and 2016/17 years to \$238 in the 2017/18 year). This coincides with declining numbers of venues and machines.
31. New Zealand has a very low problem gambling rate by international standards. The New Zealand National Gambling Study: Wave 4 (2015)⁷ found the problem gambling rate was 0.2% of people aged 18 years and over (approximately 8,000 people nationally). The problem gambling rate is for all forms of gambling, not just gaming machine gambling.
32. All gaming machine societies contribute to a problem gambling fund. This fund provides over \$25 million per annum to the Ministry of Health to support and treat gambling addiction and to increase public awareness. The funding is ring-fenced and not able to be redirected to other health areas.
33. An excellent, well-funded problem gambling treatment service exists. The problem gambling helpline is available 24 hours a day, 365 days per year. Free, confidential help is available in 40 different languages. Free face-to-face counselling is also available and specialist counselling is available for Māori, Pasifika and Asian clients. An anonymous, free text service (8006) is available. Support via email is also available (help@pgfnz.org.nz).

Existing Gaming Machine Safeguards

34. Limits exist on the type of venues that can host gaming machines. The primary activity of all gaming venues must be focused on persons over 18 years of age. For example, it is prohibited to have gaming machines in venues such as sports stadiums, internet cafes, and cinemas.
35. There is a statutory age limit that prohibits persons under 18 years of age playing a gaming machine.
36. There are very restrictive limits on the amount of money that can be staked and the amount of prize money that can be won. The maximum stake is \$2.50. The maximum prize for a non-jackpot machine is \$500.00. The maximum prize for a jackpot-linked machine is \$1,000.00.
37. All gaming machines in New Zealand have a feature that interrupts play and displays a pop-up message. The pop-up message informs the player of the duration of the player's session, the amount spent, and the amount won or lost. A message is then displayed asking the player whether they wish to continue with their session or collect their credits.
38. Gaming machines in New Zealand do not accept banknotes above \$20.00 in denomination.

⁷ <https://www.health.govt.nz/system/files/documents/publications/national-gambling-study-report-6-aug18.pdf>

39. ATMs are excluded from all gaming rooms.
40. All gaming venues have a harm minimisation policy.
41. All gaming venues have pamphlets that provide information about the characteristics of problem gambling and how to seek advice for problem gambling.
42. All gaming venues have signage that encourages players to gamble only at levels they can afford. The signage also details how to seek assistance for problem gambling.
43. All gaming venue staff are required to have undertaken comprehensive problem gambling awareness and intervention training.
44. Any person who advises that they have a problem with their gambling is required to be excluded from the venue.
45. It is not permissible for a player to play two gaming machines at once.
46. All gaming machines have a clock on the main screen. All gaming machines display the odds of winning.
47. The design of a gaming machine is highly regulated and controlled. For example, a gaming machine is not permitted to generate a result that indicates a near win (for example, if five symbols are required for a win, the machine is not permitted to intentionally generate four symbols in a row).
48. It is not permissible to use the word “jackpot” or any similar word in advertising that is visible from outside a venue.
49. From 1 December 2023, ATMs at gaming venues must be in direct line of sight from the main bar area or main customer service area.
50. **From 1 December 2023, gamblers will only be permitted to make one cash withdrawal per day.** If a second cash withdrawal is made, the venue staff are required to talk to the player about their gambling and complete a two-page report about the person’s gambling. That report must then be reviewed by the venue manager within seven days.
51. From 1 December 2023, gaming machines cannot be visible from outside the venue.
52. From 1 December 2023, venue staff are required to undertake three formal sweeps of the gaming room per hour and keep a detailed record of each sweep.

Council Conflicts of Interest

53. It is important that the committee of councillors that determines the gambling venue policy reflects the full views of the community. It has, however, become common for councillors who are involved in community and sporting groups to withdraw from the gambling venue policy deliberation as they consider the receipt of funding by a group that they are associated with constitutes a conflict. It has also been common for councillors

with very strong, pre-determined anti-gambling views to refuse to withdraw from the policy deliberation, despite their strongly held views.

54. The Association has sought independent legal advice (copy attached) from Brookfields Lawyers regarding gambling venue policy conflicts. In summary, the key advice is:
- Being a member of a club or organisation that receives funding from a gaming grant will not usually give rise to conflict of interest when it comes to deciding or discussing Council's gambling venue policy, unless that member holds a paid role (e.g., a coach who is paid for that service); and
 - Where an elected member, outside of a debate on the issue, has expressed a view on the gambling venue policy that suggests that they do not and cannot have an open mind on the matter, this could give rise to a conflict of interest on the grounds of predetermination.

Oral Hearing

55. Jarrod True, on behalf of the Gaming Machine Association of New Zealand, would like to make a presentation at the upcoming oral hearing.

12 October 2023

Jarrod True

Counsel

Gaming Machine Association of New Zealand



gmanz.org.nz



15 March 2021

By Email: chair@gmanz.nz

Gaming Machine Association of New Zealand
c/o Peter Dengate-Thrush
Independent Chair

ATTENTION: Peter-Dengate Thrush

GAMBLING VENUE POLICY - CONFLICT OF INTEREST

We refer to your email instructions of 26 February 2021, seeking our advice regarding councillor conflicts of interest with respect to decision-making on Council's gambling venue policy.

YOUR QUESTIONS

1. You have asked us to advise whether:
 - a. Membership of a club or organisation that receives gaming machine grant funding would constitute a conflict of interest that would require the councillor to withdraw from decision-making or discussion regarding a proposed gambling venue policy; and
 - b. If Council has itself received gambling grant funding, does this impact on its ability to decide on a gambling venue policy, such that the decision should be made by an independent commissioner?

EXECUTIVE SUMMARY

1. In summary:
 - a. If an elected member has a financial interest in a club or organisation that may be impacted by the gambling venue policy, the member must not participate in any discussion or decision-making on the policy. It would be rare for a financial interest to arise in this context, but examples may be where the elected member is in a paid role at a club or organisation, and the role is funded from a gaming grant. A more remote interest may arise where the quantum of membership fees paid to a club or organisation may be impacted by a gaming grant. In those circumstances,

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it may be prudent to seek a decision from the Auditor-General as to whether the potential interest is deemed too remote to influence decision-making.

- b. Being a member of a club or organisation that receives funding from a gaming grant will not usually give rise to a conflict of interest when it comes to deciding or discussing Council's gambling venue policy, unless that member holds a paid role (e.g. a coach who is paid for that service).
 - c. Being a member or a club or organisation that operates a gaming licence will give rise to a conflict of interest, particularly where the elected member serves in an executive role at the club or organisation.
 - d. Where an elected member, outside of a debate on the issue, had expressed a view on the gambling venue policy that suggests that they do not and cannot have an open mind on the matter, this could give rise to a conflict of interest on the grounds of predetermination.
2. The fact that Council may have previously been the recipient of gaming grant money would not create a conflict of interest when deciding its gambling venue policy. Such democratic decision-making is fundamental to its role and is distinguishable from regulatory or quasi-judicial decision-making where appointment of an independent commissioner may be appropriate to avoid any appearance of bias. The decision-making processes in the Local Government Act 2002 (**LGA**) already impose important requirements to ensure that such decision-making involves consideration of broader community views and not just the interests of Council as an organisation. It would therefore be unnecessary and inappropriate to appoint an independent commissioner because Council initiatives may have previously benefited from gaming grants.

ANALYSIS

3. Under section 101 of the Gambling Act 2003 (**GA**), territorial authorities must, using the special consultative procedure in section 83 of the LGA, adopt a policy that specifies whether class 4 venues may be established in the district, and if so, where they may be located (**the policy**). The policy may also 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.

Does membership of an organisation or club create a conflict of interest for participation in discussion or decision-making on gambling venue policies?

4. It is not uncommon for councillors to be members of organisations and clubs, some of which may receive grant funding from gaming machines. This raises the question of whether membership of such a club or organisation would constitute a conflict of interest that would prevent the councillor from participating in discussion or decision-making regarding the policy.
5. Broadly speaking, a conflict of interest occurs when an elected member is affected by some other interest that he or she has in their private life. There are different types of conflict of interest:

gLTthead



- a. Financial conflicts of interest – where the member (or their spouse or partner) has a direct or indirect financial interest in a particular decision, they cannot discuss or vote on the matter.¹
- b. Non-financial conflicts of interest.

Financial conflicts of interest

6. The applicable legislation is the Local Authorities (Members' Interests) Act 1968 (**LAMIA**). While the LAMIA does not define what a financial interest is, section 6(2) outlines a number of examples where a member will be deemed to have a financial interest:
 - The member, or his or her spouse, owns 10% or more of the issued capital of an incorporated company or any company controlling that company, that has a pecuniary interest (direct or indirect) in a matter before the local authority or committee; or
 - The member, or his or her spouse, is a member of the company and either of them is the managing director or the general manager of the company; or
 - The member, or his or her spouse, is a member of a company controlling the company having a pecuniary interest in the matter before the local authority or committee, and either the member, or his or her spouse, is the managing director or the general manager; or
 - The member, or his or her spouse, is the managing director or general manager of the company, and either of them is a member of a company controlling that company.
7. Other than these examples, the LAMIA does not define what a "financial interest" is. However, the Auditor-General has described a "financial interest" as "a reasonable expectation of financial loss or gain from the particular decision".²
8. It is unlikely that membership alone of a community organisation that receives gaming grant funding would give rise to a financial interest. This is because such organisations and clubs are usually run on a not-for-profit basis. One example where a financial interest could potentially arise would be if the member were in a paid position at the club or organisation, and the funding for that position comes from gaming grants. Another example may be where there is a prospect that membership fees or subscriptions to a club could be affected by the amount of gaming grant funding. However, given that gambling venue policies are relatively high-level in nature and do not directly address matters such as the licensing of particular venues (which involve a separate decision-

¹ Section 6(1) of the Local Authorities (Members' Interests) Act 1968.

² Controller and Auditor-General, **Local Authorities (Members' Interests) Act 1968: A Guide for members of local authorities on managing financial conflicts of interest**, June 2020, at 4.15, referring to the definition of a financial interest in **Downward v Babington** [1975] VR 872.



making process, often by Council officers acting under delegated authority), or allocation of gaming grants (which are decided by the organisations that operate gaming licences subject to statutory requirements), any such potential impact is likely to be too speculative or remote to constitute a financial interest in the decision-making on a gambling venue policy.

9. Notwithstanding this view, where an elected member may receive a financial benefit of the kind described above from a club or organisation receiving gaming grant funding, they may as a matter of prudence wish to first obtain an exemption from the Auditor-General under section 6(3)(f) of the LAMIA (on the grounds that the financial interest is too remote or insignificant to be regarded as likely to influence him or her in voting or taking part in the discussion of the policy) before participating in discussion or decision-making on the policy. It is a relatively simple process to apply for such an exemption.

Non-financial conflicts of interest

10. A non-financial conflict of interest is any situation where a member is not affected financially by a decision but is affected in some other way that may constitute bias or the appearance of bias. Non-financial conflicts of interest are relevant to the avoidance of bias in decision-making. As opposed to financial interests, which can create personal liability for an elected member, bias is a matter of Council's accountability to the public. The avoidance of bias is part of the administrative law principles of natural justice, which require the Council to act fairly in reaching its decisions. The fairness principle has been described in these terms:³

In exercising that discretion, as in exercising any other administrative function, they [members] owe a constitutional duty to perform it fairly and honestly ... What is a fair procedure to be adopted at a particular enquiry will depend upon the nature of its subject matter.

11. The test for whether an interest may give rise to an apparent bias has been stated by the Court of Appeal as being where circumstances:⁴

...might lead a fair-minded lay observer to reasonably apprehend that the judge might not bring an impartial mind to the resolution of the instant case.

12. Unlike a financial conflict of interest, a potential non-financial conflict does not automatically exclude a member from participating in a decision. It will depend on how serious the conflict is. The Auditor-General has suggested a number of factors that may be relevant to an assessment of whether a potential conflict is serious enough to exclude a member from participation in decision-making. They include:⁵

- The type or size of the person's other interest;
- The nature or significance of the particular decision or activity being carried out by the public organisation;
- The extent to which the person's other interest could specifically affect, or be affected by, the public organisation's decision or activity; and

³ **Bushell v Secretary of State for the Environment** [1981] AC 75, 95.

⁴ **Muir v Commissioner of Inland Revenue** [2007] 3 NZLR 495.

⁵ Controller and Auditor-General, **Managing conflicts of interest: A guide for the public sector**, June 2020, at 4.31.



- The nature or extent of the person's current or intended involvement in the public organisation's decision or activity.

13. In our view, in the context of decision-making on a gambling venue policy, the mere fact that an elected member is also a lay member of an organisation or club that receives gaming grant funding is unlikely to give rise to a conflict of interest. This is because of the level of remoteness from any possible benefit or loss associated with the decision-making. In most cases, the contents of a gambling venue policy will not directly impact on funding that has or may be received by a club or organisation from gaming machine grants. The purpose of the policy is to specify whether class 4 venues may be established, and if so their location. It can also specify restrictions on the number of gaming machines that may operate at a class 4 venue. Such matters do not necessarily impact directly on whether a club or organisation may receive gaming grant funding, and if so, the amount of any such grant. Funding decisions are made by the organisations who operate the gaming machines, not the Council. The fact that a member, by virtue of membership of a club or organisation that has received gaming grants, has knowledge or experience of the beneficial impacts that gaming grants can have on the community does not give rise to a conflict of interest. To the contrary, it may contribute to a fair and balanced consideration of the issues arising when making decisions on a gambling venue policy. This would be consistent with the purpose of the GA, which is *inter alia* to ensure that money from gambling benefits the community and to facilitate community involvement in decisions about the provision of gambling.⁶

14. It is important to distinguish between membership of a club or organisation that receives gaming grants, and membership of a club or organisation that holds a gaming licence. In our view, while the former would not give rise to a conflict of interest in decision-making on a gambling venue policy, there is a much greater likelihood that the latter could give rise to a conflict of interest. This is particularly the case if the elected member holds an executive role in the club or organisation that operates a gaming licence. This is because, while a gambling venue policy does not specify whether or not a particular club or organisation is able to obtain a gaming licence *per se*, the policy may affect the eligibility of a club or organisation to hold a licence. As such, participation in the discussion or decision-making by a member of any such club or organisation could create an appearance of bias and therefore a conflict of interest.

15. Elected members should also always be mindful of avoiding predetermination, i.e., approaching decision-making with a closed mind. Elected members are entitled (and expected) to bring their previous knowledge and experiences to decision-making, but to approach any decision with an open mind. This means that elected members should be cautious about being vocal, other than in the course of Council debates, about particular views in a manner that may suggest that they do not and cannot have an open mind on a particular matter. This is because a conflict of interest may arise as a result of possible predetermination (i.e. actual or perceived bias).

16. In summary:

⁶ Section 3 of the GA.



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- a. If an elected member has a financial interest in a club or organisation that may be impacted by the gambling venue policy, the member must not participate in any discussion or decision-making on the policy. It would be rare for a financial interest to arise in this context, but examples may be where the elected member is in a paid role at a club or organisation, and the role is funded from a gaming grant. A more remote interest may arise where the quantum of fees paid to a club or organisation may be impacted by a gaming grant. In those circumstances, it may be prudent to seek a decision from the Auditor-General as to whether the potential interest is deemed to remote to influence decision-making.
- b. Being a member of a club or organisation that receives funding from a gaming grant will not usually give rise to a conflict of interest when it comes to deciding or discussing Council's gaming venue policy.
- c. Being a member of a club or organisation that operates a gaming licence will give rise to a conflict of interest, particularly where the elected member serves in an executive role at the club or organisation.
- d. Where an elected member, outside of a debate on the issue, has expressed a view on the gambling venue policy that suggests that they do not and cannot have an open mind on the matter, this could give rise to a conflict of interest on the grounds of predetermination.

Would Council be conflicted in deciding a gambling venue policy because it has previously received gaming grants?

17. Council initiatives will frequently fall within the second category of the definition of an "authorised purpose" for which gaming proceeds may be used, as set out in section 4 of the GA i.e., "a non-commercial purpose that is beneficial to the whole or a section of the community". Notwithstanding the eligibility for Council initiatives to receive gaming grants, Parliament conferred territorial authorities with the responsibility of formulating a gaming venue policy for their districts. We do not consider that any conflict of interest would arise in relation to decision-making on a gambling venue policy because the Council may have previously been awarded gaming grants. This is because:

- a. While individual elected members are subject to the LAMIA which prevents them from participating in decision-making where they have a financial interest, Council as an entity is not subject to the LAMIA.
- b. Caselaw recognises the inevitability of a degree of conflict within councils when exercising certain statutory functions. It is established, for example, that a council may object to its own district plan, prosecute itself, and apply to itself for a resource consent.
- c. The standard of impartiality for a Council is that it must approach its duty of inquiring into submissions with an open mind.⁷ Given the requirement to undertake a special consultative process and the diverse views of individual members, it is unlikely that the fact that certain projects

⁷ *Lower Hutt City Council v Bank* [1974] 1 NZLR 545 at 550.

gLTthead

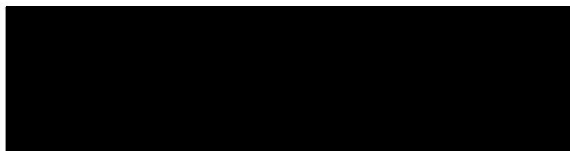


Page 7

undertaken by Council have benefited from gaming grants would unduly influence Council decision-making on its gambling venue policy. For the same reasons outlined above in relation to individual members, the connection between gaming grant money and decision-making on gambling venues is too remote to constitute a conflict of interest. In any event, compliance with the statutory rules in the LGA regarding decision-making by local authorities⁸ and the general principles relating to local authorities⁹ are intended to ensure that Council decision-making is open, transparent, and has regard to the diversity of community interests, notwithstanding the many facets and activities undertaken by Council.

18. We note that Council is not undertaking a quasi-judicial role when formulating a gambling venue policy. There is greater need to avoid the appearance of bias when it comes to regulatory or quasi-judicial decision making (such as considering a resource consent application). In those circumstances, where there is an apparent conflict in Council's interests, it is common for Council to delegate its decision-making to an independent commissioner. To that end, the Resource Management Act 1991 (**RMA**) specifically allows for the appointment of independent commissioners to decide consent applications. However, while Council may delegate its decision-making on a gambling venue policy to a particular committee or sub-committee of Council, it would be unnecessary (and in our view, inappropriate) to delegate such decision-making to an independent commissioner.

Yours faithfully
BROOKFIELDS



Partner



⁸ Section 76 of the LGA.

⁹ Section 14 of the LGA.

gLthead

Speaker Seven

Name: Eliot Fenton

Organisation: Te Whatu Ora

Subject: Gambling Venues Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly disagree

Can you share with us why you gave this answer?

See submission

Attached Submission

Yes



Te Whatu Ora Health New Zealand

National Public Health Service, Toi Te Ora Public Health
PO Box 2120
TAURANGA 3140

3 November 2023

Tauranga City Council
Private Bag 12022
TAURANGA 1343
Email: policy@tauranga.govt.nz

Feedback on Tauranga City Council (TCC) Gambling Venues Policy Review

Introduction

Te Whatu Ora leads the day-to-day running of the health system across Aotearoa New Zealand, and either provides or commissions services at local, district, regional and national levels. Under the Pae Ora (Healthy Futures) Act 2022, one of the key objectives of Te Whatu Ora is “to promote health and prevent, reduce, and delay ill-health, including by collaborating with other agencies, organisations, and individuals to address the determinants of health.” The National Public Health Service (NPHS) is a division of Te Whatu Ora and leads the delivery of Health Protection, Health Promotion and Prevention services, as well as working with the Public Health Agency and Te Aka Whai Ora on intelligence, population health and policy. As a Tiriti o Waitangi partner NPHS advocates for equitable health outcomes, by striving to eliminate health differences, particularly for Māori, and build towards pae ora (healthy futures) for everyone. Toi Te Ora Public Health (Toi Te Ora) is the public health service for the Bay of Plenty and Lakes districts.

Toi Te Ora supports evidence-based approaches to improving health and wellbeing. This includes promoting healthy environments and ensuring whānau and communities can live healthy lives. Toi Te Ora is committed to Pae Ora (healthy futures) for all.

Gambling is a significant public health issue. The harms of gambling are experienced by individuals, whānau, and the wider community with disproportionate harms impacting Māori, Pasifika and low income communities. Tauranga City Council is tasked with improving community wellbeing under the Local Government Act (Local Government (Community Well-being) Amendment Act 2019). Toi Te Ora welcomes the opportunity to submit on the proposed changes to Tauranga City Council’s Gambling Venues Policy and submits the following:

- Toi Te Ora **recommends** Council strictly enforces its existing sinking lid policy and not allow relocation of venues and gambling machines.
- Toi Te Ora **strongly recommends** removing Section 2.5 from the Gambling Venues Policy.

Te Whatu Ora Health New Zealand

Gambling as a Public Health Issue

Gambling harm exists across a spectrum. Even low-risk gamblers contribute to the harm experienced by communities. One in five people in New Zealand report experiencing harm from their own or someone else's gambling.¹ While they are not directly involved in gambling children often bear the brunt of it.

A 2017 Aotearoa New Zealand study found that gambling may cause more harm across the community than chronic illnesses such as diabetes and heart disease.² The study highlights six key areas of gambling harm: financial hardship, relationship disruption, reduced performance, decreased health, mental distress, and criminal activity.³

Equity and Upholding Te Tiriti o Waitangi

Gambling harms are not distributed evenly. Māori, Pacific peoples, Asian, young people, and people with lower incomes are all disproportionately impacted by gambling harm.⁴ The 2020 Health and Lifestyle survey by Te Hīringa Hauora shows that Māori were three times more likely to be moderate risk or problem gamblers compared to non-Māori non-Pacific peoples, while Pacific peoples were 2.5 times more likely.⁵

As shown in the social impact assessment by Council, a significant proportion (two thirds) of Class 4 venues are in medium to high deprivation areas. This will continue to exacerbate gambling harms among communities that already experience disproportionate gambling harms. Policy revisions should focus on reducing harm on the most impacted communities.

As with many challenges for Māori, the drivers of gambling are linked to colonisation, land loss and poverty.⁶ Under Te Tiriti o Waitangi, and as kaitiaki protecting the wellbeing of the Tauranga community, Council has a requirement to connect with iwi and protect future generations of Tauranga from gambling harm. Allowing relocation of gambling machines to communities that face disproportionate harms, and not prioritising Māori aspirations, is a breach of Te Tiriti o Waitangi. In particular, a breach of the principle of Tino Rangatiratanga.

Toi Te Ora **strongly recommends** that Council prioritises iwi, hapū and whānau views on the proposed policy changes. Council decisions should focus on reducing gambling harm to positively influence the wellbeing of future generations and support sovereignty.

¹ Ministry of Health. 2022. Strategy to Prevent and Minimise Gambling Harm 2022/23 to 2024/25. Wellington: Ministry of Health.

² Auckland University of Technology. 2017. *Measuring the burden of gambling harm in New Zealand*. Wellington, NZ: Ministry of Health

³ Auckland University of Technology. 2017. *Measuring the burden of gambling harm in New Zealand*. Wellington, NZ: Ministry of Health.

⁴ Te Hīringa Hauora. 2021. Results from the Health and Lifestyles Survey 2020.

⁵ Te Hīringa Hauora. 2021. Results from the Health and Lifestyles Survey 2020.

⁶ Adams, P. (2004). The history of gambling in New Zealand. *Journal of Gambling Issues*, 12, 1-15.

Te Whatu Ora Health New Zealand

Gambling Harm Outweighs Community Funding Benefits

The harms of gambling outweigh any benefits to the community through grants and gambling funding.⁷ Gambling (Class 4 Net Proceeds) Regulations 2004 do not require funds to be returned directly to the contributing community, or in a manner that addresses socioeconomic inequities.⁸ In practice the distribution of funding from gambling is inequitable. A Business and Economic Research report observed that funds are less likely to return to high deprivation communities, who experience significantly greater harms from gambling.^{6,9}

Much attention is given to the distribution of funds from gambling charities. Unfortunately, only a small proportion of what is gambled comes back to communities, and as above evidence confirms it tends to go more to communities who gamble less. Additionally, the Social Impact Assessment states that the proposed policy changes will be unlikely to impact community grant funding.

Toi Te Ora **recommends** that harm reduction and community wellbeing should be the focus of policy changes, not the ongoing generation of funding from gambling. Council plays a vital role in this regard. Therefore, Toi Te Ora **strongly recommends** Section 2.5 is removed from the Gambling Venue Policy, because gambling has a greater social and health impact on our vulnerable populations and Council can provide greater protection as part of their role improving community wellbeing.

Sinking Lid Policies Require Active Enforcement for Harm Reduction

Allowing relocation of venues does not align with a sinking lid policy. The Social Impact Assessment suggest that the sinking lid policy has not been enforced effectively since its inception in 2019. Since 2019 the number of both machines and gambling venues have increased.

Toi Te Ora is concerned that the proposed relocation policy will directly undermine the effectiveness of the sinking lid policy. Toi Te Ora **recommends** strict enforcement of the existing sinking lid policy to reduce the number of class 4 venues and machines in Tauranga. A recent nationwide study showed that when a sinking lid policy is enforced, they are one of the most effective in reducing class 4 gambling harm.¹⁰

⁷ Malatest International Gambling Harm Needs Assessment 2021. URL: www.health.govt.nz/system/files/documents/publications/gambling-harm-needs-assessment-2021.pdf.

⁸ [Gambling \(Class 4 Net Proceeds\) Regulations 2004 \(SR 2004/365\) \(as at 01 July 2020\) Contents – New Zealand Legislation](#)

⁹ BERL. 2020. Assessment of the effects of Class 4 gambling on wellbeing in New Zealand. Department of Internal Affairs. 2020

¹⁰ Erwin C, Pacheco G, Turcu A. The Effectiveness of Sinking Lid Policies in Reducing Gambling Expenditure. J Gambl Stud. 2022;38(3):1009-1028.




Te Whatu Ora

Health New Zealand

Thank you for the opportunity to provide feedback on the Tauranga City Council proposed gambling policy changes. We look forward to working alongside you and supporting this work.

Toi Te Ora is available to answer any questions or clarify any points raised in this feedback. Please telephone Eliot Fenton (Health Improvement Advisor – [REDACTED]).



Dr Phil Shoemack
Medical Officer of Health

Speaker Eight**Name:** Ash Gee**Organisation:** Miss Gee's Bar & Eatery / Chair – Downtown Tauranga**Subject:** Gambling Venues Policy, Street Use Policy

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Strongly agree

Can you share with us why you gave this answer?

See submission

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Disagree

Can you share with us why you gave this answer?

See submission

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

See submission

Can you share with us why you gave this answer?

See submission

Is there anything else you think we should consider if we put this policy in place?

See submission

Attached Submission

Yes

TO Tauranga City Council

3 November 2023

SUBMISSION ON GAMBLING VENUES AND STREET USE POLICIES.

By: Ashleigh Gee – Miss Gee’s Bar & Eatery / Chair – Downtown Tauranga

My view on the use of Streets in our city is that we should be supporting the operators who pay for the use of the areas, to create exceptional public spaces that add to the overall vibrancy of the area.

Gambling Venue Policies

I support and agree with The Gaming Machine Association of New Zealand’s (GMANZ) submission around the relocation provision being expanded to allow the council to consider relocations in any circumstances when the new site is more desirable from a harm minimisation perspective. This would allow venues to move to areas away from residential areas/sensitive sites. I support updating the proposed maps clearly indicating areas available for venue relocation.

Street Use Policies

6. Licence to Occupy the Street and its intent: Much of what the clause proposes will hurt the majority of our hospitality operators in these areas, through overregulation and unnecessary cost structure increases from the policies outlined.

6.2 Licence to Occupy agreements must be no shorter than a **12-month agreement with 6 months’ notice to cancel**. A business must put in a considerable amount of investment and planning to utilise these spaces. Operators need certainty to ensure they will not leave out on investment. We are trying to encourage vibrancy and this comes from providing enjoyable open air spaces. Operators will be less likely to take up leases with the risk factor involved, therefore leading to reduction in outdoor dining and overall vibrancy. We should be focusing on how we can make it easier for operators to use their LTO areas to full capacity. Encourage them to make great spaces to attract more customers and increase vibrancy.

6.5 Regarding the Street dining design guidelines, Tauranga City Council needs to consult with the industry before developing this guideline to ensure the requirements and expectations meet industry requirements so that excellent outdoor dining spaces can be achieved. As the weather becomes more unpredictable, we need to provide operators with ways to be able to waterproof their areas so that they can use their areas all year round as they pay for them, and encourages more vibrancy year round.

Regarding the suggestion of operators ‘promoting smoke and vape-free areas’, operators will need clarity on what meets Council expectations of ‘promoting’. If the intent is to ban smoking or vaping, that should be stated clearly, not inferred – Council must be clear before formalising any of this in a policy. Consideration of our tourism industry needs to be considered here. We are already talking about reducing hours, this will be yet another unnecessary regulation on operators and negative experience for visitors. The website notes: ***“As a part of this policy, businesses using public streets for dining will need to have a smoke and vape-free policy for these spaces.”*** However, the policy

document requires the licence holder to promote smoke and vape-free street dining. More clarity is required.

Operators that can provide sectioned areas for smoking/vaping that have no impact on public spaces should reserve the right to do this. As we are a region that is popular with tourists and many tourists still smoke/vape, this will have a negative effect on the experience we can provide. This will be another regulation put on operators that could easily be managed by them on their own terms as they hold the lease for space. Operators shouldn't be held accountable for individual actions, and we do not want to set up operators to lose their right to operate in the street if a customer is found to be vaping or smoking. Additionally, time of day should be considered, as late-night entertainment spaces will be impacted by smoking/vaping regulations.

If the smoke/vape-free requirement is targeted to areas where small footpath clearings/main walkways are used, then this should be on a case-by-case basis at most. For larger LTO spaces that do not directly encroach on footpaths and high foot traffic, this should be left up to the operator to manage and promote.

6.6 The fees payable should be a flat fee based on footfall, location and season. If the hospitality owner chooses to make the most of their space and make it into a profitable part of their business, then the city wins on vibrancy and more foot traffic. Operators should not be penalised for providing great experiences for the public as well as increasing financial turnover.

7. Lease of airspace above streets - the suggestion of a 75% fee for this area will again have a negative effect on operators. This area is presently accounted for in their private leases – both floor area and airspace charges being passed on to the tenant. This will result in the operator paying twice for the same amount. This charge has already been charged to tenants utilising balconies so I do not support another charge. If the Council proceeds, then it should only apply to any new buildings or lease agreements.

Again, considering the overall goal of arts, culture and vibrancy for our region needs to be considered when developing further regulations on the hospitality industry. This industry is one of the main draw cards for tourists and a high employer of travellers. A Council that considers this industry and works with them to elevate their businesses, will win in increase of foot traffic, vibrancy and tourism. Consultation on this policy should have happened with the industry prior to drawing up the document. Find out how businesses operate and the implications some of these regulations that have been included could impact businesses.

Thank you for the opportunity to provide this submission. I am available to speak on these topics if required.

Ashleigh Gee



Speaker Nine**Name:** Claudia West**Organisation:** Mount Mainstreet Association**Subject:** Gambling Venues Policy, Street Use Policy, Traffic and Parking Bylaw**How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?**

Disagree

Can you share with us why you gave this answer?

Given there are no further perimeters associated with the criteria for gambling venues to move (only the approved map) the business Association does not support this. The Mount Business Association would only support this move if there were further criteria in place prior to a venue being approved to move to their new location. Such as

1. the number of existing gambling venues in the same area (for example, we already have two down the Mount Mainstreet within 1km of each other. We would not like to see much more than this).
2. their proximity to social / emergency housing (we have social housing right in the middle of our Mainstreet and that is not captured in your low deprivation areas on your map)

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Disagree

Can you share with us why you gave this answer?

1. Business down the Mount Mainstreet are already paying extremely high commercial rates for their location, which we continue to see increased.
2. a nominal fee to apply for the license would be fair (eg Wellington or Hamilton City Council) so council can then provide them stipulations on how they can use that space. But we do not think businesses should be charged a premium to be able to use the space, which otherwise wouldn't be occupied.
3. Our hospitality businesses that use the footpath bring a vibrancy to our Mainstreet, it makes it look busy and inviting, if high rates were charged to businesses, then it would put them off using the space. We have already talked to one business who has said they would need to move to a full takeaway based business if rates are too high.
4. Our foot traffic down the Mount drops off significantly during the winter season, not to mention impacts from weather, meaning they can really only use the outdoor dining for a limited time of the year. Our summer foot traffic is also increased with cruise ship passengers who typically don't spend much either.
5. having businesses use the footpath, it creates a sense of safety as more people are out on the street.

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Neither agree nor disagree

Can you share with us why you gave this answer?

1. For us to be able to represent our members views on this topic is very difficult.
2. If bars are able to provide their own smoking area on private land then that would be ideal, but not all of them have the ability to do so.
3. how would this even be enforced eg at 11pm at bars.

Is there anything else you think we should consider if we put this policy in place?

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Strongly agree

Could you share with us why you gave this answer?

This would be a good look for our community, particularly at the Mount how close we are to ocean and having a beachy, environmentally friendly vibe.

Do you think we should make it clear that council permission is required to create a second driveway?

Neither agree nor disagree

Do you have any other thoughts on clarifying this rule about second driveways that you want to share?

NA for MBA to comment on this one.

Do you think we should add an option in the bylaw for drivers to potentially provide their registration number for free, timed car parks?

Strongly agree

Do you have any other comments you would like to provide on this suggested parking management tool?

Yes, if this is a tool to be able to more effectively monitor free time limited parks, while keeping free parking down the Mount. MBA is in full support of this! Great idea! use technology to improve our systems rather than making people pay for parks.

Attached Submission

No

Speaker Ten

Name: Matthew Hayward

Organisation: N/A

Subject: Gambling Venues Policy, Street Use Policy, Traffic and Parking Bylaw

How strongly do you agree, or disagree, that we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?

Agree

Can you share with us why you gave this answer?

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Strongly disagree

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Strongly disagree

Can you share with us why you gave this answer?

People can move half a metre from the restaurant and smoke or vape, therefore not allowing people in the public dining area is pointless

Is there anything else you think we should consider if we put this policy in place?

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Strongly disagree

Could you share with us why you gave this answer?

People should be allowed to do with their berm as they wish, we do not need council input on these areas

Do you think we should make it clear that council permission is required to create a second driveway?

Strongly disagree

Do you have any other thoughts on clarifying this rule about second driveways that you want to share?

Do you think we should add an option in the bylaw for drivers to potentially provide their registration number for free, timed car parks?

Strongly disagree

Do you have any other comments you would like to provide on this suggested parking management tool?

Ridiculous information gathering

Attached Submission

No

Speaker Eleven**Name:** Jo Veale**Organisation:** Mount Backpackers**Subject:** Street Use Policy

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Strongly disagree

Can you share with us why you gave this answer?

Because as a business owner, who uses a very small part of the footpath to offer a service for guests to our city I feel really strongly that my business contributes to the overall appeal of tourists being able to come here to our city. Charging me more for this (in which I do no damage), is really frustrating as it seems revenue drive for my small business. These are only in your identified areas, however, what about other commercial/retail space? Who will monitor this and how? I already pay exorbitant rates and rental to be able to run my business, I just feel here is another cost being added by council.

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Strongly agree

Can you share with us why you gave this answer?

Smoke pollution should not be allowed.

Is there anything else you think we should consider if we put this policy in place?

You allow vape shops everywhere, including around schools, so I think this should be part of the larger discussion from a social health perspective

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Don't know/ unsure

Could you share with us why you gave this answer?

This sounds like a very weak statement. "We suggest stating in the policy that residents should use..." Well, what does that even mean? Should use, well of course that should be in the policy but this is a bit silly to ask for feedback on a recommendation to residents. Just do it.

Attached Submission

No

Speaker Twelve**Name:** Mark Lucero**Organisation:** The Pizza Library Co.**Subject:** Street Use Policy

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Strongly disagree

Can you share with us why you gave this answer?

We are a business that has been severely hit by Covid and the current economic hardship and continue to pay high council rates. The footpaths in our areas have not been serviced.

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Disagree

Can you share with us why you gave this answer?

I do not smoke but believe that smokers have the right to smoke outdoors.

Is there anything else you think we should consider if we put this policy in place?

Please do not put this policy in place. It is not fair to struggling businesses.

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Don't know / unsure

Could you share with us why you gave this answer?

Attached Submission

No

Speaker Thirteen**Name:** Claire Dale**Organisation:** N/A**Subject:** Street Use Policy, Traffic and Parking Bylaw

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Strongly Disagree

Can you share with us why you gave this answer?

Parking at the shopping centers is free. Business pay Rates that should cover public road parking

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Strongly Agree

Can you share with us why you gave this answer?

When smokers and capers exhale they don't realise how much it affects others

Is there anything else you think we should consider if we put this policy in place?

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Disagree

Could you share with us why you gave this answer?

Property owners who use fake grass are not watering it. They consider it an environmentally friendly option

Do you think we should make it clear that council permission is required to create a second driveway?

Strongly agree

Do you have any other thoughts on clarifying this rule about second driveways that you want to share?

If it's law it should be made clear

Do you think we should add an option in the bylaw for drivers to potentially provide their registration number for free, timed car parks?

Strongly agree

Do you have any other comments you would like to provide on this suggested parking management tool?

Enforcement of parking needs updating. Tauranga should follow Queenstown's model for enforcement where tickets are sent to the owner of the vehicle for parking violations from CCTV footage. A ticket on the windscreen is dangerous for the wardens and outdated. Mobility parking needs to be increased in CBD areas even when other parking is removed in order to encourage people to use public transportation

Attached Submission

No

Speaker Fourteen**Name:** Paul Hickson**Organisation:** N/A**Subject:** Street Use Policy, Traffic and Parking Bylaw

How strongly do you agree, or disagree, that we should phase in charges across the city for the businesses that use public streets and footpaths?

Neither agree nor disagree

Can you share with us why you gave this answer?

How strongly do you agree, or disagree, that we should make public dining spaces smoke and vape free?

Disagree

Can you share with us why you gave this answer?

Is there anything else you think we should consider if we put this policy in place?

How strongly do you agree, or disagree, that we should encourage residents to plant their berms, and stop using artificial turf?

Agree

Could you share with us why you gave this answer?

Grass grows well in the Tauranga region and at the Mount and Papamoa kikuyu thrives in the sandy and dry conditions.

Do you think we should make it clear that council permission is required to create a second driveway?

Agree

Do you have any other thoughts on clarifying this rule about second driveways that you want to share?

Agree provided you allow a second or wide driveway where it is sensible. e. g. In 2003 we added an extra living area on our property at the Mount and at the time we had to provide 4 off street car parks. To allow better access we widened the driveway so at least two vehicles had access at one time. Works well.

Do you think we should add an option in the bylaw for drivers to potentially provide their registration number for free, timed car parks?

Agree

Do you have any other comments you would like to provide on this suggested parking management tool?

Attached Submission

No

Speaker Fifteen**Name:** Reece Burgess**Organisation:** N/A**Subject:** Traffic and Parking Bylaw**Do you think we should make it clear that council permission is required to create a second driveway?**

Neither agree nor disagree

Do you have any other thoughts on clarifying this rule about second driveways that you want to share?

Seriously who cares, case by case, let people use their brains and if they cannot & the odd driveway creates a notable issue, then intervene instead of adding more bureaucratic process's stifling everyone and creating jobs where none is required.

Don't interfere when not required.. what one rare instance has brought this issue up? Deal with that instance and move on without changing "everything".

Do you think we should add an option in the bylaw for drivers to potentially provide their registration number for free, timed car parks?

Strongly Disagree

Do you have any other comments you would like to provide on this suggested parking management tool?

I got caught out, I follow the rules but got held up running in and out of a shop.

This meant I received a fine.

My solution "stuff town". The shop will pay by no foot traffic.

DONT OVER REGULATE when it just doesn't matter. it's a curtesy system or should be.

Go to baypark or any "non" dying shopping centers, do you pay there or policed? are there any issues?

No, so I am right by deduction of results proven by present, past and future results.

any minor issues in exception to this have never taken much to resolve.

Save the money and back off. don't be a smothering parent to fully grown adults, officious and regimented which just says "shop else-where" to any reasonable person.

you are our council, start listening, its really very simple.

that one parking "violation" from town, a minor delay, has cost the shop 8 further sales as "who can be bothered with parking Nazi's". There was no one around & no need for that.... rules for what? when there will be no shops left, back off !

Less hands on, save money & produce better results for everyone, which is the local economy

Attached Submission

No

8.2 Hearings Report for the Traffic and Parking Bylaw

File Number: A15182928

Author: Vicky Grant-Ussher, Policy Analyst

Authoriser: Jeremy Boase, Manager: Strategy and Corporate Planning

PURPOSE OF THE REPORT

1. To provide submissions on the draft Traffic and Parking Bylaw.

RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the report "Hearings Report for the Traffic and Parking Bylaw".
- (b) Receive the written submissions on the draft Traffic and Parking Bylaw (Attachment 1)
- (c) Receive the verbal submissions from those submitters who wish to speak to their submission.

BACKGROUND

2. The Traffic and Parking Bylaw (the 'bylaw') is made under the Land Transport Act 1998 and the Local Government Act 2002. It regulates traffic and parking issues to ensure the safety and efficiency of the transport system. The bylaw is due for review under the Local Government Act 2002.
3. The review commenced in February 2023 and feedback was sought from staff and relevant stakeholders. On 6 June 2023, the Strategy, Finance and Risk Committee provided direction on issues raised through the review of the bylaw. The review identified that while the bylaw was working well, the proposed changes would help futureproof the bylaw.
4. The draft revised bylaw was approved for public consultation by the committee on 18 September 2023. Consultation ran from Wednesday 4 October to Saturday 4 November 2023. The consultation document, which includes the submission form, draft bylaw and Statement of Proposal, is provided in Attachment 2.
5. 317 submissions were received and are attached (Attachment 1). Table one below lists the 6 submitters wanting to speak to the committee. An updated schedule will be provided at the hearings meeting.

Table One: Submitters wishing to speak to their submission

Submitter Number	Submitter Name	Business
44	Reece Burgess	n/a
147	Kim Ort	DOCA
189	Paul Hickson	n/a
237	Claire Dale	n/a
314	Claudia West	Mount Mainstreet Association
310	Matthew Hayward	n/a

6. As required under the Local Government Act, the Special Consultative Procedure was carried out. The consultation was advertised on the council website, social media, public

notice, and through the Tauranga Toolbox¹. Hard copies of the consultation material were also available at Customer Services at He Puna Manawa, all our libraries and the Mount Hub.

STRATEGIC / STATUTORY CONTEXT

7. Traffic and parking management contributes to achieving the community outcome Tauranga Ara Rau, a city we can move around easily. Council adopted a Parking Strategy in 2021 and is in the process of developing more detailed parking management plans, with a finalised plan for the city centre already adopted and a plan for Mount Maunganui under development.
8. The bylaw helps give effect to these strategies and plans through setting traffic and parking rules and enabling their enforcement. The bylaw enables many traffic and parking rules to be implemented, as needed, by Council resolution.

SIGNIFICANCE

9. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
10. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the issue
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
11. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of medium significance.

ENGAGEMENT

12. Taking into consideration the above assessment, that the issue is of medium significance, and the fact that community consultation has just taken place, officers are of the opinion that no further engagement is required prior to the committee receiving the submissions.

NEXT STEPS

13. Following consideration of the written and verbal submissions, the committee will deliberate on the bylaw on 4 December 2023.

ATTACHMENTS

1. **Submissions on the Traffic and Parking Bylaw - A15268813 (Separate Attachments 1)** 
2. **Consultation material - A15262712 (Separate Attachments 2)** 

¹ A council communication aimed at those working in the building industry.

8.3 Hearings Report for the Street Use Policy

File Number: A15182929

Author: Vicky Grant-Ussher, Policy Analyst

Authoriser: Jeremy Boase, Manager: Strategy and Corporate Planning

PURPOSE OF THE REPORT

1. To provide submissions on the draft Street Use Policy.

RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the report "Hearings Report for the Street Use Policy".
- (b) Receives the written submissions on the draft Street Use Policy (Attachment 1).
- (c) Receives the verbal submissions from those submitters who wish to speak to their submission.

BACKGROUND

2. In February 2023, a review of four existing policies related to the use, licensing and leasing of streets (including berms and road reserves)² began. As part of the review, feedback was sought from staff and relevant stakeholders.
3. On 7 August 2023, the Strategy, Finance and Risk Committee (the committee) gave direction on several issues raised through the review. On 18 September 2023 the committee provided direction on two additional issues and approved a draft consolidated Street Use Policy for consultation.
4. 321 submissions were received and are attached (Attachment 1). Table one below lists the 9 submitters wanting to speak to the committee. An updated schedule will be provided at the hearings meeting.

Table One: Submitters wishing to speak to their submission

Submitter Number	Submitter Name	Business Name
5	Paul Hickson	n/a
86	Claire Dale	n/a
195	Kim Ort	DOCA
305	Mark Lucero	The Pizza Library
309	Jo Veale	Mount Backpackers
311	Luke Van Veen	Hospitality New Zealand
315	Matthew Hayward	n/a
317	Claudia West	Mount Mainstreet Association
320	Ash Gee	Miss Gee's Bar and Eatery / Chair Downtown Tauranga

² These include the lease of airspace above roads policy 2000, lease of subsoil below roads policy 2002, licences for occupation of road reserves and unformed road policy 1997, and occupation of road berms for public parking and for planting on berms in front of private residences policy 2000.

5. The consultation was advertised on the council website, social media, public notice, and through the Tauranga Toolbox³. Hard copies of the consultation material were also available at Customer Services at He Puna Manawa and all our libraries, as well as the Mount Hub. A copy of the consultation material is provided in Attachment 2.

STRATEGIC / STATUTORY CONTEXT

6. The City Vision adopted by Council and developed in conjunction with the community outlines our collective vision for the city. 'Tauranga, together we can' captures the vision for a collaborative approach to realising a city that 'prioritises nature', 'lifts each other up', and 'fuels possibility'. These three pillars inform council's refreshed strategic framework, with our five primary strategies geared towards delivering the five community outcomes that together contribute to the vision.
7. The vision and strategic framework inform the council's plans and policies, which guide the implementation of these higher-level strategies in council's day-to-day activities. It is therefore important that council's approach to street use is aligned with the council's strategic direction. More specifically, the policies for how streets can be used by businesses and the community should deliver public benefits through easy movement and accessibility and providing inclusive, diverse, and vibrant spaces.

SIGNIFICANCE

8. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
9. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the issue
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
10. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of medium significance.

ENGAGEMENT

11. Taking into consideration the above assessment, that the issue is of medium significance, and the fact that community consultation has just occurred, officers are of the opinion that no further engagement is required prior to the committee receiving the submissions.

NEXT STEPS

12. Following consideration of the written and verbal submissions, the committee will deliberate on the policy on 4 December 2023.

ATTACHMENTS

1. **Submissions on the Street Use Policy - A15268924 (Separate Attachments 1)** 
2. **Consultation material - A15262742 (Separate Attachments 2)** 

³ A council communication aimed at those working in the building industry.

8.4 Hearings Report - Gambling Venues Policy

File Number: A15187059

Author: Jennifer Ross, Policy Analyst

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To receive submissions on the proposed change to the relocation criteria in the Gambling Venues Policy.

RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the report "Hearings Report - Gambling Venues Policy".
- (b) Receives the written submissions on the draft Gambling Venues Policy.
- (c) Receives the verbal submissions from those who wish to speak to their submission.

EXECUTIVE SUMMARY

2. On 18 September 2023, the Strategy, Finance and Risk Committee (committee) approved a proposed change to the relocation criteria in the council's Gambling Venues Policy, some minor amendments to the policy, and a statement of proposal for community consultation.
3. Submissions were sought from 4 October to 4 November 2023.
4. 250 submissions were received and ten of the submitters wish to speak to the committee at the hearings today.

BACKGROUND

5. Tauranga City Council's Gambling Venues Policy 2022 (the policy) aims to maintain the community benefit of gambling venues while limiting gambling harm. This is achieved by restricting the number and location of gambling venues in the city and when and where they may relocate.
6. Currently more than half of the gambling venues in Tauranga are in areas where people are more likely to experience gambling harm, and the current policy only allows venues to relocate under limited circumstances.
7. On 27 March 2023, the committee requested a review of the relocation criteria in the policy. After considering the various options, the committee approved, for public consultation, the proposal to let gambling venues move away from areas where people live, into areas likely to cause less community harm.
8. The following proposed change to the relocation criteria was publicly consulted on:
 - (a) venues would be able to relocate to alternative premises for any reason, even if they could continue to operate in their current premises
 - (b) venues wishing to relocate would only be able to move to premises in a commercial or industrial zone identified in the Tauranga City Plan, and that is more than 100 metres from residential zones of high-deprivation, as measured on the NZDep 2018 or subsequent indexes (current rules specify the NZDep 2013 index which has been superseded).

9. 250 submissions were received and are attached (Attachment 1). Table one below lists the ten submitters wanting to speak to the committee. An updated schedule will be provided at the hearings meeting.

Table One: Submitters wishing to speak to their submission

Submitter Number	Submitter Name or Business Name
1	Te Whatu Ora
2	Miss Gee's Bar & Eatery / Chair – Downtown Tauranga
3	Pub Charity Limited
4	DOCA
5	Gaming Machine Association of New Zealand
6	Hospitality New Zealand
7	Grassroots Trust Limited
8	Matt Hayward
9	Mount Business Association
10	The Salvation Army Oasis

10. The consultation was advertised on the council website, through social media, and by public notice. Hardcopies of the consultation material were also available at Customer Services at He Puna Manawa and all our other libraries as well as the Mount Hub.
11. The community was specifically asked:
- (a) *How strongly do you agree, or disagree, we should allow gambling venues to move, so they can leave areas that research tells us they are likely to do more harm?*
 - (b) *Can you share with us why you gave this answer?*
12. Targeted consultation was carried out with key stakeholders including gambling venues, gaming machine trusts, TAB, and social service providers (including Māori support services), to inform them of the proposed change in the policy and to encourage them to make a formal submission.

STRATEGIC / STATUTORY CONTEXT

13. The City Vision adopted by Council and developed in conjunction with the community outlines our collective vision for the city. 'Tauranga, together we can' captures the vision for a collaborative approach to realising a city that 'prioritises nature', 'lifts each other up', and 'fuels possibility'.
14. The vision and strategic framework inform the council's plans and policies, which guide the implementation of these higher-level strategies in council's day-to-day activities. It is important that council's approach to the relocation of gambling venues is aligned with the council's strategic direction. More specifically, the Gambling Venues Policy should deliver an approach to managing the number and locations of gambling venues that seeks to achieve a city that is inclusive, safe, resilient and healthy, and is well planned with successful and thriving communities. This will involve balancing the competing needs in our community for the community benefit of gambling venues and the grants they provide, while limiting gambling harm.

SIGNIFICANCE

15. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal

or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.

16. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the proposal
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
17. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the proposal to change the relocation criteria is of medium significance, however the decision to receive and hear the submissions is of low significance.

ENGAGEMENT

18. Taking into consideration the above assessment, that the issue is of medium significance, and that general and targeted consultation with a range of stakeholders has already taken place, officers are of the opinion that no further engagement is required prior to the committee receiving the submissions.

NEXT STEPS

19. Once the submitters are heard, the committee will, on 4th December, deliberate on the feedback from all submissions on the proposed change to the relocation criteria and consider the recommended amendment to the policy.

ATTACHMENTS

1. **Gambling Venues Policy Submissions Table - A15275846 (Separate Attachments 2)** 
2. **Gambling Venues Policy Consultation Material - A15281299 (Separate Attachments 2)** 

9 DISCUSSION OF LATE ITEMS

10 CLOSING KARAKIA