

# Statement of Proposal

## Class 4 Gaming and TAB Venue Policy

### 1 Context and Situation

There are four main types of gambling allowed in New Zealand: New Zealand Lotteries Commission (Lotto), casinos, sports betting through the TAB, and (non-casino) class 4 Electronic Gaming Machines (EGMs) also known as pokie machines. The Department of Internal Affairs administers most gambling regulation, however local authorities must have policies about the location and number of class 4 EGMs and standalone TAB venues. The Council is required to have a Class 4 gaming policy under section 101 of the Gambling Act 2003. The Council is also required to have a TAB venue policy under section 96 of the Racing Industry Act 2020.

The Class 4 Gaming and TAB Venue Policy (Policy) was previously reviewed on 30 October 2014. The 2014 Policy was developed in consultation with residents, community stakeholders, Police and Public Health. The Policy was amended to follow a “sinking lid” policy model. Under this model, no new class 4 gaming machines are allowed in the district, and machines cannot be redistributed.

On 24 February 2022, following a review of the Class 4 Gaming and TAB Venue Policy 2014, the Council approved the following (Resolution 2022/5):-

- a) under section 102 of the Gambling Act 2003, that the Class 4 venues policy component of the Class 4 Gaming and TAB Venue Policy continue with amendment to improve certainty,
- b) under section 102 of the Gambling Act 2003, that the relocation policy component of the Class 4 Gaming and TAB Venue Policy continue with amendment to further align with the intent of the Class 4 gaming sinking lid policy; and,
- c) under section 97 of the Racing Industry Act 2020, that the TAB venues policy component of the Class 4 Gaming and TAB Venue Policy be replaced by a sinking lid policy.

### 2 Proposal

The Council proposes to continue with amendment the Class 4 Gaming and TAB Venue Policy, to improve clarity and certainty, and further align with the sinking lid policy model.

### 3 Reasons for the proposal

Under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020, the Policy must be reviewed every three years. Whilst the review date has since passed (2017), the Policy does not cease to have effect and remains in place.

When adopting a class 4 gaming venue policy and / or a TAB venue policy, or considering a relocation policy, the Council must have regard to the social impact of gambling within the district. As part of the 2022 review, the Council considered a report on the social impacts of gambling in the Far North District. The demographics of the district mean that our communities are more vulnerable to the detrimental effects of problem gambling. Furthermore, a significant amount of money is removed from the district due to class 4 gambling. Therefore, a sinking lid policy continues to be the most appropriate way to manage the establishment of class 4 and TAB venues in the Far North.

Under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020, amendments to the Council's policy on class 4 gaming and TAB venues must be adopted in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002.

## 4 Analysis of the reasonably practicable options

The Council considered four options for addressing problems relating to the establishment of class 4 gaming and TAB venues:

- Continue the Policy with minor amendments
- Continue the Policy with amendments to the relocation policy components
- Continue the Policy with amendments to the TAB policy components
- Continue the Policy with amendments to both the relocation and the TAB policy components

The advantages and disadvantages of the options are summarised in the following table.

Option	Advantages	Disadvantages
<b>1. Status quo: The Policy continues with minor amendments</b>	<ul style="list-style-type: none"> <li>• Policy aligns with the relevant legislation</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Relocation Policy continues to have provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).</li> <li>• Relocation Policy does not align with the intent of the sinking lid policy.</li> <li>• Council continues to allow the establishment of stand-alone TAB venues which may have a detrimental effect on our vulnerable communities.</li> </ul>
<b>2. The Policy continue with amendments to the relocation policy components</b>	<ul style="list-style-type: none"> <li>• Removing provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).</li> <li>• Removing provisions that do not align with the intent of a sinking lid policy.</li> <li>• Improves the effectiveness of a sinking lid policy.</li> <li>• Policy aligns with the relevant legislation</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Council continues to allow the establishment of stand-alone TAB venues which may have a detrimental effect on our vulnerable communities.</li> </ul>
<b>3. The Policy continues with</b>	<ul style="list-style-type: none"> <li>• No stand-alone TAB venues will be able to be established which takes into</li> </ul>	<ul style="list-style-type: none"> <li>• Relocation Policy continues to have provisions that are unnecessary because</li> </ul>

<b>amendments to the TAB policy components</b>	consideration the detrimental effect of gambling on our vulnerable communities. <ul style="list-style-type: none"> <li>• Policy aligns with the relevant legislation.</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	of the precedent set by the Waikiwi Decision (2019). <ul style="list-style-type: none"> <li>• Relocation Policy does not align with the intent of the sinking lid policy.</li> </ul>
<b>4. The Policy continues with amendments to both the relocation and the TAB policy components (recommended option)</b>	<ul style="list-style-type: none"> <li>• Removing provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).</li> <li>• Removing provisions that do not align with the intent of a sinking lid policy.</li> <li>• No stand-alone TAB venues will be able to be established which takes into consideration the detrimental effect of gambling on our vulnerable communities</li> <li>• Improves the effectiveness of the sinking lid policy.</li> <li>• Policy aligns with the relevant legislation.</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	None

The Council resolved that Option Four is the preferred option, for the following reasons:

- to ensure the Policy is consistent with relevant legislation
- to improve certainty
- to take a consistent approach to minimise the harm caused by gambling in the Far North District.

## 5 How to give your views on the proposal

The council encourages any person or organisation affected by, or having an interest in, the Class 4 Gaming and TAB Venue Policy to present their views on the proposal to the Council by making a submission.

You can make a submission by using any of the following methods:

- online at the council's website [www.fndc.govt.nz/have-your-say](http://www.fndc.govt.nz/have-your-say)
- email your submission to [submissions@fndc.govt.nz](mailto:submissions@fndc.govt.nz)
- drop-off your submission at any council service centre or library, details of their locations and opening times are listed at [www.fndc.govt.nz/contact](http://www.fndc.govt.nz/contact) or you can get that information by phoning the council on 0800 920 029
- post your submission to: Strategy Development Team, Far North District Council, Private Bag 752, Kaikohe 0440
- make an oral presentation of your submission at a meeting of the Council

Please include your full name and email address or postal address in your submission if you want:

- the council to acknowledge receipt of your submission
- to make an oral presentation – you will be contacted about when and where the meetings for this are taking place.

**Privacy statement** – Please be aware, any submissions that are made on the amended Class 4 Gaming and TAB Venue Policy become part of the public consultation process. As such, all submissions, any summaries of submissions, and any documents provided with your submission, are copied and made available to the Council’s governing body as well as the public. Any personal information included with a submission such as your name is treated as part of the submission and will also be released publicly. Your submission and any personal information that you supply such as your name will not be treated as confidential unless you specifically request it in your submission.

## 6 Draft Class 4 Gaming and TAB Venue Policy

The draft policy is as follows:

### Background

The Class 4 Gaming and TAB Venue Policy is made under Section 101 of the Gambling Act 2003 and section 96 of the Racing Industry Act 2020. The review and amendments to the Policy are made under Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020.

Under the Gambling Act 2003, applicants for Class 4 gaming (‘pokies’) venue licenses must have the consent of the territorial authority in which the venue is, or will be, situated. In order to consider and determine applications for consent, territorial authorities are required by the Act to have a policy specifying whether or not Class 4 venues may be established in their district, and if so where. The policy may also include a relocation policy, and may restrict the maximum numbers of machines below the statutory limits (in the Act this is 18 for venues licenced as at 17 October 2001, and 9 after that date, with some exceptions for clubs).

Under Section 96 of the Racing Industry Act 2020, territorial authorities must adopt a policy on TAB venues. The policy must specify whether or not new standalone TAB venues may be established in their district, and where they may be located.

This policy has been developed to enable the Council to consider and determine consent applications. As required by the Acts, all decisions by the Council to grant or decline consent must be made in accordance with this policy.

### Objective

The Far North District Council supports the primary objectives of the Gambling Act 2003 to ensure that:

- Gambling is primarily used to raise funds for community purposes
- The harm caused by gambling is prevented or minimised
- Local involvement in decisions about the availability in communities of more ‘risky’ forms of gambling is facilitated
- The growth of gambling is controlled
- Gaming machines are located in appropriate venues
- Community input is sought in the preparation of the Policy through the Local Government Act 2002 Special Consultative Procedure (SCP)

## Policies

### Class 4 Venues

1. The Far North District Council has set a 'sinking lid' on the number of machines in the district with effect from the date the policy is adopted by Council. Under a sinking lid policy, Council will not grant consent for the establishment of any new Class 4 gaming venues, except where an existing licensed venue needs to relocate for the reasons specified below. Council will not grant consent for additional Class 4 gaming machines, and machines will not be available for redistribution.
2. The Far North District Council will accept applications for the relocation of existing machines to a new venue. The criteria for relocation are:
  - a. Where two or more clubs, with existing licenses, may legally merge, at which time the maximum number of machines should not exceed 18, and the venue must be suitably located to meet the criteria of this Policy; or,
  - b. Where a business which holds an existing Class 4 gaming license wishes to relocate from its current premises to a new venue within the District, and take all or fewer of its existing machines to those new premises. Council will only consider such applications for relocations due to:
    - i. Fire or other damage to the present venue, or
    - ii. Expiry of lease on present venue, or
    - iii. The building of a new premises or refurbishment of an existing building as a new venue.
  - c. No machines may be left at the current venue.
  - d. A new venue will not be considered if it is defined as a venue declared unfit under section 4 of the Gambling (Harm Prevention and Minimisation) Regulations 2004.
  - e. Applications for relocation of machines to a new premise will be subject to public notification and referred to the relevant Community Board for consideration and comments, as well as other key interested parties (e.g. the Police, Te Whatu Ora).
  - f. A new Class 4 gaming venue must not be within 100 metres of any other Class 4 gaming venue.
  - g. A new Class 4 gaming venue must not be in a higher deprivation area than the existing venue.
  - h. New Class 4 gaming venues shall be in Commercial, Industrial, General Coastal, Rural Living or Rural Production zones, or within sports clubs or public houses and shall be eligible for consent provided the venue is at least 100 metres from any Kindergarten, early childhood centre, school, place of worship, Marae, or other community facility, and 100 metres from any Residential, Coastal Residential, Coastal Living, or Recreational Activities zones.
  - i. If it is not practicable to apply a 100 metre proximity policy, then the distance becomes a discretionary condition. The Council will then make the decision.
  - j. Following the Waikiwi precedent, certain kinds of moves will not trigger the Council's relocation policy. If the relocation to a different site meets the following criteria, it may not be a change of venue:
    - a. the new building is in very close proximity to the existing site
    - b. the venue name will be the same
    - c. ownership and management of the venue will be the same

- d. patrons and the public will regard it as the same venue.

## TAB Venues

3. TAB venues in on-licence premises do not require a TAB venue consent from Council.
4. In alignment with the sinking lid policy on class 4 gaming machines, the Far North District Council will not accept TAB NZ applications for new TAB venues.

## Procedures

### Application requirements

1. All applications for consent for Class 4 Gaming machines or TAB Venues must be accompanied by the following information:
  - A fully completed prescribed application form.
  - Appropriate application fee payment. This fee shall incorporate the administration charge and a proportion of the cost of monitoring and review of policy.
  - A full floor plan, location map of premises, detailing distance to nearest school, Kindergarten, Child care centre, place of worship or other community facility, and residential zone.
  - Floor plan to be the same plan that accompanies the Sale & Supply of Alcohol Act (2012) On-Licence and show designated areas.
  - Details of current or proposed Liquor Licence applications, or existing licenses.
  - Copies of all other appropriate current licenses (e.g. Health Licence)

### Processing of Relocation Applications

2. Applications will be checked by Council staff to ensure that all relevant information has been provided. In cases where all relevant information is not available, the application shall be rejected as incomplete. This information shall include payment of any appropriate fees.
3. All accepted applications will be checked to ensure compliance with District Plan requirements. At this point, the applicant will be notified of the need for any Resource Consents, if applicable.
4. Applications for relocation of machines to a new premise will be subject to public notification and referred to the relevant Community Board for consideration and comments, as well as other key interested parties (e.g. the Police, Te Whatu Ora).
5. Applications will be assessed for compliance with the Class 4 Gaming and TAB Venue Policy.
6. Consents will be issued following compliance with Resource Planning requirements if necessary and compliance with the Class 4 Gaming and TAB Venue Policy.

7. Applications for the relocation of machines shall not be subjected to specified processing time scales due to the need for consultation.

## Monitoring and Review

8. The Council may amend this at any time.
9. The Council will complete a review of the policy every 3 years as specified in the legislation.
10. If the Council amends or replaces this policy, it will do so in accordance with the Special Consultative Procedure as required by the Local Government Act 2002.

## Fees and Charges

11. All Fees and Charges will be those set by Council, from time to time, and in accordance with Council's current Fees and Charges Schedule.
12. The Fees and Charges shall include the following costs:
  - a. Application and processing (administration) fee
  - b. Cost of compliance inspections (monitoring)
  - c. Contribution costs toward triennial assessments of economic and social impact of gambling in the District (review)