

Analysis of submissions

Class 4 Gaming and TAB Venue Policy

1 Background

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 refers):

- 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.

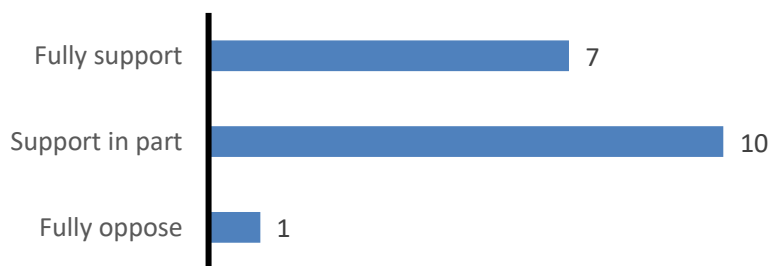
On 9 Feb 2023 Council approved a proposal for an amended Class 4 Gaming and TAB Venue Policy for public consultation. The period during which people could make submissions on the proposal was 15 February to 15 March 2023. Thirty submissions were received.

This report analyses the submissions and makes recommendations for amendments to the draft amended Policy. A numbered list of people who made submissions is in Appendix I and these numbers are used to refer to the individual submissions in the body of this report.

2 Summary of submissions

Thirty written submissions were received, with 11 received online and 19 via email. Of the 30 people who made written submissions, 10 submitted the same copied text (15, 16, 18, 19, 21, 22, 24, 28, 29 & 30). As these 10 people made the same points against the proposed policy, these 10 'form responses' are counted as one response in the chart below.

Figure 1: Support for the proposed amended policy



Base: 18 responses to the proposed policy

Seven responses were fully in support of the proposed amended policy, 10 supported the amended policy in part and 1 was not supportive to the proposed amendments nor to the current policy. Six of those who made written submissions also made oral submissions to the Council and these submissions were heard by the Council on 6 April 2023.

Where submitters did not fully support the proposed policy and made suggestions for changes, these suggestions are included in the analysis in section four of this report.

3 General feedback

3.1 Support for the policy in general

15 of the submissions made comments in support of the Class 4 Gaming and TAB Venue Policy, for example these include (05, 07, 13, 14 & 27):

General comments about protecting the community

"[I am] supportive.. of all efforts to further minimise harm that is caused from gambling ..retain current policy."

"Better protection put in place for the community"

"The more pokies we stop or reduce, the better off our community will be. They cause great harm to those who are least able to afford it and are always put in locations where people are already struggling."

"All efforts to relocate to areas that are the least socially disadvantaged should be considered first."

"Where relocation of EGMs [Electric Gaming Machines] is considered permissible under the sinking lid policy or under existing legislation, all efforts to relocate to areas that are the least socially disadvantaged should be considered first"

Comments based on personal experience of problem gambling

"Personal experience of being affected by someone who had a gambling habit."

"Grandmother in her 80's had compulsion to spend her pension in pokie machines. This put a strain on the entire family. Please continue your efforts to remove them from our area."

Staff analysis

The feedback above is in support of a Class 4 Gaming and TAB Venue Policy as it reinforces the need to protect individual gamblers, their family/whānau and friends, and the broader community from potential problems arising from Class 4 gambling.

Staff recommendation

No changes are recommended to the Class 4 Gaming and TAB Venue Policy based on these submissions that are supportive of the policy.

3.2 Reasons for keeping the current policy (status quo) and opposing the proposed amendments

The following comments are general in nature and not related to specific clauses in the amended Policy.

Comments regarding money from Class 4 gambling being returned to the community

A number of submitters were concerned that the sinking lid policy would reduce Class 4 gambling money being returned to the community, examples of these (07 & 10) are:

"The current legislature provides for funds to be redistributed back into the community which enables much social good, the real harm is the on-line gambling which takes funds out of the country. We are better to control locally and manage exceptions than allow carte blanche online."

"..these gaming trusts support numerous sports groups, arts groups and community groups throughout the year through the grants they distribute...This month we were supported by Pub Charity for \$50K towards roof repairs. This is significant funding in a difficult financial environment. Where does this come from if the gaming trusts do not supply these grants?"

"Whilst it is great to have protection in place in regards to gambling, these funds play a large part in ensuring that local sports organisations and groups receive necessary funding not provided by government or sporting agencies to keep our rangatahi and tamariki out playing a balance of sports. If only alcohol proceeds did the same."

"While not a fan of the gambling machines and the detrimental effects of gambling, these gaming trusts support numerous sports groups, arts groups and community groups throughout the year through the grants they distribute....When there is a plan in place to provide and replace the funding that will be lost due to the sinking lid policy, then I will support this move."

Comments regarding the policy being unethical and inequitable and should go further

Submission 17 links harmful gambling, social disparity and the funding model that enables it:

"It is time for councils and the government to take a closer look at the relationship between harmful gambling, social disparity and a funding model that enables it. Funding communities based on a system that relies on our lowest income households putting money they cannot afford to lose into gaming machines is unethical and inequitable. This disproportionately impacts Māori who generally reside in areas where the majority of these machines are situated."

Reducing the number of gaming machines will encourage online gambling and decrease community funding

Two submissions (10 & 13) spoke of increased online gambling as a result of the 'sinking lid' approach:

“ As this sinking lid policy develops, this gambling will likely move online where there are less controls and regulation in place and no legislation to put a proportion of this money back into the community.”

..[reducing venues and machine numbers] “merely reduces community funding and accelerates the migration of gambling to online providers where there is zero return to the community.”

The Council should not have a policy regarding Class 4 gaming machines

Only one submission (08) completely opposed having a policy in the Far North district linked to Class 4 gambling:

“Fix our roads, sort out crime, prepare for climate change etc. I do not feel it is the FNDC business to tell us what to do in our spare time.”

Staff analysis

Re: money from Class 4 gambling being returned to the community is unethical and inequitable

While there are harm-related costs to the community linked with Class 4 gambling, some submissions mention the wellbeing improvements to New Zealanders from increased funding of sport, art and community activities.

In 2019, the total spent on class 4 EGMs in the Far North District was \$15.7 million. \$2.4 million (15.3%) was returned to the district in grants to community and sporting groups. (This figure does not capture grants that might have been made to a national body or shared with another district.). Profits from machines operated by clubs are retained for the purposes of the club.

The figures suggest that, overall, a significant amount of money is taken out of the district. The government and industry have important roles to play in providing a balance between costs and benefits of gambling and ensuring the costs of gambling are minimised and the benefits are maximised.

Staff acknowledge that there is merit of submission 17 which suggests to government, councils and stakeholders (such as Health Boards and community groups) to consider initiatives to financially support sports groups, arts groups and community groups and to become less reliant and dependant on funding from gambling. As part of implementation, consideration can be given to other forms of community funding initiatives, such as “CommUnity”, Community Organisation Grants Scheme (COGS), Council grants and other funds that groups choose which are more socially responsible than accessing funds from gaming machines.

Re comments that reducing Class 4 gambling will drive gambling online

New Zealanders may legally gamble online on offshore sites. Official statistics show participation in online gambling is low (2% of respondents).¹ This activity is not currently regulated or captured by the Department of Internal Affairs; however, the DIA is conducting a review into online gambling.

The accessibility, speed, and unsupervised environment of online gambling is high risk. People who gamble online do experience high rates of harm, but this is often because they are likely to gamble more heavily overall, and are more likely to have an existing gambling problem. One third to half of online gamblers experiencing harm attribute their problems to place-based forms of gambling.²

¹ [2018 Health and Lifestyles Survey](#)

² Hing, N., Russell, A., Browne, M. (2017). *Risk factors for gambling problems on online electronic gaming machines, race betting and sports betting*. *Frontiers in Psychology* doi: 10.3389/fpsyg.2017.00779

There is concern that online gambling is riskier than class 4 EGMs, because of the lack of host responsibility. Pubs and clubs are obliged to monitor and assist patrons who show signs of harmful gambling. However, the *2018 Health and Lifestyles Survey* found that 90% of pokie players didn't think their pokie room was monitored. None of the players surveyed had been spoken to by staff with a concern about their gambling, although 16% were experiencing some level of gambling harm.³ This data suggests that class 4 EGMs are not safer than online gambling.

Please note the control of online gambling is outside of scope of this policy and is a function of central government to regulate.

Re: the need for the Class 4 Gaming and TAB Venue Policy

Staff acknowledge there can be a variety of activities that the community may rate as a higher priority for the allocation of resources. However, under the Gambling Act 2003, Council must have (and regularly review) a policy relating to the number and location of Class 4 gaming machine gambling venues in the district. To comply with legislation, Council must allocate resources to the review of this policy.

Staff recommendation

Staff recommend no changes in response to these submissions.

4 Analysis and recommendations regarding the policy wording

The following section analyses submissions made about clauses in the draft policy and recommends how to address these submissions in the policy.

4.1 Clauses and their wording not referred to in submissions

No submissions were made about the following clauses in the draft policy:

- Clause 1. 'Sinking Lid' on the number of machines in the Far North District
- Clause 2a, 2c, 2d, 2e – Relating to applications to relocate existing machines to a new venue
- Clause 3 –TAB Venues
- Clause 4 –TAB Venues in alignment with the 'sinking lid' policy
- Procedures – Application Requirements
- Procedures – Processing of Relocation Applications
- Monitoring and Review
- Fees and Charges

4.2 Clause 2.b. The relocation of existing machines to a new venue

Submissions received

Five submissions (04, 06, 11, 12 & 17 and the 10 submissions of the form response (15, 16, 18, 19, 21, 22, 24, 28, 29 & 30) specifically commented on the relocation clause, (note: the use of 'current' implies the existing policy):

Ten submissions (15, 16, 18, 19, 21, 22, 24, 28, 29 & 30) received as one form response said:

*"The **current** Gaming and TAB Venue Policy the Far North District Council has in place is serving the community well. The policy flexibility allows for the desperately needed funding to the community to be maintained at its current levels ...the threshold for relocation met under the current policy is sensible".*

³ [2018 Health and Lifestyles Survey](#)

Submission 12 stated:

*“The **current** relocation provision is flexible and sensible. It allows Council to consider proposed relocations in any circumstances. The approval of a relocation application is still, however, discretionary, with the onus being on the applicant to justify each individual case on its merits.”*

“...If a business owner wishes to move due to the current venue being earthquake prone, this will no longer be able to be considered.... Venue relocation applications should still be able to be considered when the reason for the move is to move out of earthquake-prone buildings.”

Submission 06 said:

*“The **current** policy allows for the continuation of financial support to the community. To not allow the relocation of current venues for reasons out of control of the business owner is unnecessary and unfair.”*

Merging and relocation of EGMs policy does not go far enough

Submission 11 felt that the policy does not go far enough in regard to merging and relocation of Class 4 machines.

“We do not believe it goes far enough. We do not believe the integrity of the sinking lid policy is upheld if we are to allow merging and relocation of EGM.”

Do not permit relocations (except barring the Waikiwi precedent)

Submission 17 suggested: *“further measures can be taken to ensure a ‘gold standard’ sinking lid policy. A ‘gold standard’ policy is a sinking lid that does not permit relocations (barring the Waikiwi precedent) or club mergers, consider amending clauses 2(a) and (b) to this effect”*

Staff analysis

The only amendments made have been to improve clarity and accuracy, remove duplication and correct typographical errors. An amendment was made to further align with the intent of the Gambling Act 2003 and the sinking lid policy by removing financial reasons from the relocation criteria. No submission mentioned this.

With regard to the relocation, the draft amended policy proposes:

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.*

Submissions 06 and 12 comment on reasons to relocate that are ‘out of control of the business owner’ and submission 12 specifically mentions earthquake risk as a reason to relocate.

The proposed policy only mentions “fire or other damage”.

Staff acknowledge that there could be other circumstances beyond those listed in the draft policy, that may lead to the relocation of a gaming venue, such as earthquakes or climate change that could make a site flood-prone.

While the Far North district is less prone to noticeable seismic activity than other areas of the North Island, it could also be a reason “beyond an owner’s control”. However, no other Northland council regulations identify

earthquake-prone reasons to relocate a gaming venue. To ensure consistency across Northland, earthquake-prone premises should not be included as an example of safety concerns leading to relocation.

Staff acknowledge that the safety aspect of public buildings is an important issue and therefore, this is a reasonable comment. Public buildings are required to comply with the Building Code and the Building Act 2004 which provides for the regulation of building work, building performance standards and safety provisions, including earthquake prone buildings (EPB). The EPB system holds information on buildings that territorial authorities have determined to be earthquake prone and ensures the way these buildings are managed for future earthquakes is consistent across NZ. The Health Act 1956 regulates the protection of human health and safety in buildings. Both Acts provide adequate regulation for the purposes of legislation handling earthquake prone, unsafe or “unhealthy” buildings for public use.

Referring to submission 06, staff acknowledge that the proposed policy wording does not allow for various plausible natural disaster circumstances for relocating which are beyond the control of the owner or lessee whilst ensuring that sufficient prevention is included that the new venue relocation is not to a high deprivation area.

Staff recommendation

To ensure consistency with other councils, staff do not recommend changing the wording to specifically refer to ‘earthquake-prone’; however, to include the words in 2.b.i “: a natural disaster,” before the words ‘fire or other damage to the present venue, or ’ as can be seen below.

Tracked changes to the clause as recommended

2.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 due to :

- i. **a natural disaster**, 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.

4.3 Clause 2 (f)(h)(i). Regarding the 100m separation distance for relocations

Clause 2 (f) (h) (i) outlines that a venue cannot be within 100m of another venue or sensitive site.

Submission received

Submission 04 feels that the 100m is too lenient and should be extended.

Staff analysis

The 100m separation distance is consistent with other FNDC policies including the Control of Brothels Premises Location and Advertising Signs Bylaw and the Psychoactive Substances Local Approved Products Policy. The 100m distance is also consistent with other councils such Waikato District Council and Horowhenua District Council who restrict the location of a Class 4 venue near a sensitive site.

Staff recommendation

Staff recommend no change in response to this submission.

4.4 Clause 2 (g). Relocation cannot be to a higher deprivation area than the existing venue.

Submission received

Submission 06 comments that while the proposed policy does prevent venue relocation to a higher deprivation area, this could lead to unintended consequences; as from a harm minimisation perspective, the preference should be given to moving gaming venues out of residential areas to central business districts (CBDs) however high deprivation rating calculations can include CBDs which would then restrict any relocation from a residential area.

Staff analysis

There are 275 Class 4 gaming machines across 19 venues in Far North District as of 31 December 2022. 16 of the machine venues are located in commercial/industrial or mixed-use zoning. The 2016 Health and Lifestyles Survey found that almost half of respondents (49%) who played EGMs in a pub or club at least monthly experienced some level of gambling harm. People living in the most deprived neighbourhoods are 4.5 times as likely to participate in EGM activities, which are high-risk. This is one of the reasons to avoid locating gaming venues in a residential area. Of the last three remaining venues: one is in a rural zone (Waipapakauri), a second is in open space zone (kawakawa) and the last is in the settlement zone (Moerewa). The nearest CBD area to these locations, has the same deprivation level as the current location. Therefore, if a relocation into a CBD area was to occur regarding these three venues clause 2(g) would be adhered to.

Staff recommendation

Council staff recommend no changes to the draft policy in response to this submission as it does not apply to the Far North gaming venues.

4.5 Submission on other issues than Class 4 Gaming venues

Submissions received

Submission 13: "For some people, gambling is not the only problem, the National Wellbeing Analysis commissioned by the Gaming Machine Association of NZ states that around 90% of gamblers have at least one other mental-health diagnosis...

...More work to strengthen our support services in the Far North is required. Wrap around services that cover all 3addictions and are face-to-face with problem gamblers are required to help support individuals."

Staff analysis

Staff acknowledge the need to strengthen support services in the Far North. However, this is outside of the scope of Council's role and is instead a function of Te Whatu Ora.

Staff recommendation

Council staff recommend no changes to the draft policy in response to this submission as it is outside of the scope of this policy.

APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED

Number	Organisation	Oral Submission
1	Individual submission	
2	Individual submission	
3	Northland District Health Board	
4	Individual submission	
5	Individual submission	
6	Oxford Sport Trust	x
7	Northland Rugby Union	
8	Individual submission	
9	Northland Rugby Union	
10	Turner Centre	
11	Ngā Manga Pūriri	X
12	Brookfields Lawyers	X
13	Grassroots Trust	
14	Individual submission	
15	Individual submission	
16	Individual submission	
17	PGF Group	
18	Collards Sports Bar	
19	FNR Forestry 2019 Ltd	
20	Northland Problem Gambling and Other Addictions Service, Ngā Manga Pūriri Te Hau Ora Ngapuhi	X
21	The Bank Bar	
22	The Hiku Sports Hub Inc and Te Ahu Charitable Trust	
23	Asian Family Services	
24	Kaitaia Golf Club	
25	Trillian Trust	
26	Individual submission	
27	Ngā Tai Ora (Public Health Te Tai Tokerau)	
28	Te Hiku Community Board	
29	Mussel Rock bar	
30	Individual submission	