

## CLASS 4 GAMBLING VENUE POLICY

### 1. INTRODUCTION

The Gambling Act 2003 was enacted on 18 September 2003. The Act requires Hastings District Council to adopt a Class 4 Gambling Venue policy for the Hastings District in accordance with the special consultative procedure set out in the Local Government Act 2002.

The Class 4 Gambling Venue policy:

- Must consider the social impacts of gambling within its district and specify whether or not class 4 venues may be established in the district, and if so, where they may be located.
- May specify any restrictions on the maximum number of gaming machines that may be operated at any gambling venue. The Gambling Act establishes a maximum limit of nine machines for new venues.
- May include a relocation policy

The Class 4 Gambling Venue policy will be reviewed every three years.

### 2. ANTICIPATED OUTCOMES

The adoption of Class 4 Gambling Venue policy will achieve the following outcomes:

- ***Harmful impacts of high risk forms of gambling on the Hastings District community will be avoided or minimised.***
- ***Class 4 gambling venue operators will be responsible gambling hosts.***
- ***Any new class 4 gambling venues shall be established within the Central Commercial zone, Havelock North Village Centre zone.***
- ***Class 4 gambling club venues can only relocate in a limited number of defined zones.***

### 3. OBJECTIVES OF THE POLICY

- To support the purpose and intent of the Gambling Act 2003.
- To avoid the establishment of class 4 gambling activities in locations close to residential areas, public facilities or other identified land uses sensitive to gambling activities.
- To avoid the proliferation of class 4 gambling venue strips or blocks within the city

- To encourage responsible gambling practices and attitudes in class 4 gambling venues.
- To minimise the potential for new entrant problem gamblers by reducing accessibility to gambling venues.
- To reduce the exposure and risk of under-18 year old persons to gambling opportunities and the promotion of gambling.
- To ensure as far as practicable that the actual and reasonable costs relating to venue consent applications are borne by the applicant(s).

#### **4. ESTABLISHMENT OF CLASS 4 MACHINES & VENUES**

Hastings District Council has a 'cap' approach to class 4 gambling. Therefore the Council will not grant consent where:

- (i) A proposal to establish a new Class 4 gambling venue is not within the Central Commercial zone, Havelock North Village Centre zone (as defined in the maps in this policy).
- (ii) The total number of gaming machines in the Hastings District exceeds 293.

#### **5. EXCEPTIONS FROM MEETING PARTS OF THE POLICY**

##### **5.1 Venue Relocation**

- i) Council may grant consent under s 98(c) of the Act to a proposal to change the venue to which a class 4 venue licence currently applies, provided that the relocation of a venue to which a Class 4 Venue licence currently applies can only occur within the Hastings Central Commercial or the Havelock North Village Centre zones with the following exception:
  - That the existing venues at Stortford Lodge and Clive, can only relocate within the Stortford Lodge and Clive zones as defined in the attached maps or within the Hastings Central Commercial or Havelock North Village Centre zones.
- ii) In accordance with s 97A (2)(b) of the Act the maximum number of gaming machines permitted to operate at the new venue at the time when the new class 4 venue licence takes effect is the same as the maximum number of gaming machines permitted to operate at the old venue immediately before the licence relating to the old venue is cancelled.

##### **5.2 Club Mergers**

Council will consider an exception to Clause 4 above for the relocation or merger of clubs; as defined by the Act with existing class 4 machines, as outlined below:

- (i) When two or more clubs wish to merge physically and legally in terms of section 95 of the Gambling Act 2003, the maximum number of machines

allowed will be the sum of the number of gaming machines specified in all the clubs Class 4 venue licences at the time of application with a maximum limit of 30 as provided in Section 95(4) of the Gambling Act 2003.

- (ii) For premises licensed after 17 October 2001, to which Section 96 of the Gambling Act 2003 applies, the maximum number of gaming machines allowed will be the number of machines specified in the class 4 venue licence (held immediately before an application under Section 96 is made) with a maximum limit of 18 as provided in Section 96(4) of the Gambling Act 2003.

## **6. SOCIAL IMPACT CONSIDERATIONS WHEN APPLYING TO ALL CLASS 4 GAMBLING VENUES UNDER THIS POLICY**

In addition to those conditions outlined in the Gambling Act 2003, Council shall have regard to the following:

- (i) The applicant shall provide a declaration that the gaming area in a venue will not have a separate entrance, separate name, or otherwise seem to be separate from the primary activity of the venue.
- (ii) The primary activity of the venue shall not be an activity associated with family or children's activities.
- (iii) The venue must have an 'on licence' or 'club licence' for the sale of liquor for consumption on the premises.
- (iv) The principal venue entrance shall not be located closer than a 100 metre radius of any educational facility, place of assembly, or licensed early childhood centre.
- (v) The principal entrance of the venue premises shall not be located closer than a 100 metre radius to any residentially zoned or suburban commercial zoned land.
- (vi) The venue premises shall not be within a 100 metre radius of the principal entrance of any other class 4 gambling venue or TAB venue.
- (vii) Meeting all application, declaration, and fee requirements.

## **7. APPLICATIONS**

Applications for territorial authority consent may be lodged at any time. Applications received by Hastings District Council under Clause 5.1 or 5.2 of the Policy will be assessed subject to the objectives of the Hastings District Council Class 4 Gambling Venue Policy, the purpose and intent of the Gambling Act 2003 and any other matter that Council considers relevant and reasonably necessary to determine the application.

Applications for consent must be made on the approved form and must provide to the satisfaction of Council:

- (i) name and contact details for the application, including the society name, the venue trading name(s), and other name(s) related to the venue, and the venue operators name
- (ii) street address of premises proposed for the Class 4 venue
- (iii) a specific legal description with deposited plan where required clearly identifying the area where the venue is proposed to be located
- (iv) the names of key persons at the society and venue
- (v) an audit assessment, from an independent Chartered Accountant holding a Certificate of Public Practice, of the business plan or budget for the establishment, covering at least 12 months, and clearly distinguishing the percentage of revenue to be derived from both gambling and other activities proposed for the venue, showing that the venue is clearly not to be used primarily for operating gaming machines
- (vi) a site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue, and clearly showing where the machines are to be located and the size of the area the machines will be within
- (vii) details of liquor licence(s) applying to the premises
- (viii) Other relevant information requested by the territorial authority, or that the applicant wishes to provide.

## **8. DETERMINING APPLICATIONS**

### **Notification**

Applications under Clause 5.1 of the Policy and/or applications which do not meet one or more of the conditions under clauses 6 of this policy will require a hearing and shall be publically notified.

Any application requiring a hearing shall be publicly notified as follows:

- in the public notice section of a local newspaper circulating within the city, within 15 working days of receipt of the application
- by way of a public notice displayed prominently in the window of the proposed venue for the period during which submissions are open
- by the direct notification in writing of all owners and residents of any property where any part of that property is located within 100m of the subject site
- By the direct notification in writing of any other person that Council may consider will be adversely affected by the granting of consent

### **Hearings Considerations**

The Hearings Committee will consider each application on its merits, judged against the following criteria:

- i) The extent to which the application meets the objectives of the Hastings District Council Class 4 Gambling Venue Policy, and the Purpose and intent of the Gambling Act 2003, and
- ii) The extent to which an application that does not meet a condition of clause 6, is of a minor effect, and

- iii) The extent of the potential impact on the character of the zoned area/ locality, and
- iv) The potential cumulative effects of additional gambling in that locality, and
- v) Whether the venue has reasonable potential to have a negative effect on the operation, amenity, or reasonable enjoyment of residential and/or sensitive land uses in the locality, and
- vi) That when relocating the venue relinquishes the gaming machines tied to the current location, and
- vii) The extent to which the relocated venue is giving effect to the sinking lid policy by resulting in a lesser number of machines overall, and
- viii) Any other matter that Council considers relevant and reasonably necessary to determine the application.

**9. APPLICATION FEES**

- (i) To be considered, a deposit in accordance with the Council’s schedule of fees and charges must accompany the application.
- (ii) Actual and reasonable costs of processing the application, including but not limited to any notification, consultation, hearing, administration costs, and/or inspection, may be charged to the applicant.
- (iii) The deposit will be utilised to pay for costs and fees associated with the application, and any further costs or disbursements will be charged to the applicant in the event the deposit is exhausted. Any unused portion of the deposit will be refunded.
- (iv) All fees and costs must be paid in full prior to a consent being issued.

<b>Hastings District Council Class 4 Gambling Venue Policy</b>	
<b>Prepared by:</b>	Environmental Policy Planning and Regulatory Services
<b>Adopted by:</b>	Hastings District Council
<b>Dated:</b>	24 May 2017
<b>Date by which review must be completed:</b>	24 May 2020

## DEFINITIONS

**Adjoining:** allotments sharing one or more common boundaries or separated only by a road reserve or similar equivalent

**Allotment:**

- a) Any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not:-
  - i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
  - ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or
- b) Any parcel of land or building or part of a building that is shown or identified separately:-
  - i) on a survey plan; or
  - ii) on a licence within the meaning of Part I of the Companies Amendment Act 1964; or
- c) Any unit on a unit plan; or
- d) Any parcel of land not subject to the Land Transfer Act 1952.

**Bounded by:** sharing all or part of a property boundary

**Central Commercial zone:** as defined in the Hastings District Plan and any subsequent changes (see map, Appendix One)

**Class 4 gambling venue (Venue):** A place located on one or more contiguous allotments at which gaming machines (also known as pokies) are located, or for the purposes of application at which it is proposed that gaming machines be located.

**Club:** a voluntary association of persons combined for a purpose other than personal gain.

**Gambling promotion signage:** branding or signage using the words casino or jackpot or any other words or images that convey the impression that a venue is a casino and accessible to the public

**Gaming machine:** refer to definition of 'Gaming Machine' in Gambling Act 2003

**Educational Facility:** means land and/or buildings used to provide regular instruction or training in accordance with a systematic curriculum by suitably qualified instructors, and includes schools, technical institutes, teachers colleges and universities, kura kaupapa (primary school), and kura maori (secondary school) and their ancillary administrative, cultural, health, retail and communal facilities.

**Family:** any group that can be identified as a family and that includes persons below the age of 18 years

**Family activities:** Activities which have a target market which includes family(s). This includes but is not limited to restaurants where the primary activity is dining, retail shops, and areas where there are games or entertainments whose target market may include under 18 year old persons

**Key persons:** as defined in the Gambling Act 2003

**Place:** includes –

- a) a building, structure or tent whether fully or partly constructed; and
- b) a room in a building or structure; and
- c) a court or a mall; and
- d) land; and
- e) a vehicle, vessel, or aircraft; and
- f) a caravan or a trailer or other conveyance

**Places of Assembly:** means land and/or buildings used for the public and/or private assembly of people, primarily for worship, education, recreational, social, ceremonial, cultural, and spiritual activities for meditation, and functions of a community character. May include a church, church hall, church yard, and marae. Any charges for entry into or use of the facility may only be made by groups or organisations operating on a non-profit making basis.

**Premises:** Building in which a venue is located.

**Primary part of a venue's operation:** Area greater than 15% of floor space for gaming machine area, including area around the machines.

**Primary Activity:** The activity(s) primarily associated with and promoted by the venue.

**Private Club:** refer to definition of 'Club', and in this context meeting the criteria of operating as a club as defined in section 65 (3), in the Gambling Act 2003

**School /Licensed early childhood centre:** As defined in sections 2 and 308 of the Education Act 1989 respectively

**Society:** A corporate society as defined in the Gambling Act 2003 (including reference to section 33), which has an operator's licence for class 4 gaming machines.

**TAB venues:** means premises that are owned or leased by the new Zealand Racing Board and where the main business carried out at the premises is providing racing betting or sports betting services under the Racing Act 2003 (the Act), including racecourses. It is noted that the Act specifies that this policy does not apply to TAB facilities that are part of another venue.

**Venue:** see Class 4 gaming venue.

**Zone:** An area of the city, defined as a zone in the Hastings District Plan or any subsequent changes.