

Whangarei District Council Meeting

Agenda

Date: Wednesday, 26 June, 2019

Time: 1:00 pm

Location: Council Chamber
Forum North, Rust Avenue
Whangarei

Elected Members: Her Worship the Mayor Sheryl Mai
(Chairperson)
Cr Gavin Benney
Cr Crichton Christie
Cr Vince Cocurullo
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Sue Glen
Cr Phil Halse
Cr Cherry Hermon
Cr Greg Innes
Cr Greg Martin
Cr Sharon Morgan
Cr Anna Murphy

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

1. Karakia/Prayer
2. Declarations of Interest
3. Apologies
4. Decision Reports
 - 4.1 Class 4 Gambling Venue Policy - Deliberations
5. Public Excluded Business
6. Closure of Meeting

4.1 Class 4 Gambling Venue Policy review - deliberations

Meeting: Whangarei District Council
Date of meeting: 26 June 2019
Reporting officer: Shireen Munday – Strategic Planner

1. Purpose

To deliberate on the matters raised in submissions on the proposed amendments to the Class 4 Gambling Venue Policy.

2. Recommendation

That Council, at the July 2019 Council meeting confirms the amendments to the Policy as proposed in the Statement of Proposal.

3. Legislative context

Council is required by section 101 of the Gambling Act 2003 (the Act) to adopt a Class 4 Venue Policy (the Policy) and review the Policy every three years.

The legislative scope of the Policy is limited to class 4 venues. Class 4 venues operate what is colloquially known as 'pokie machines'. The Policy does not provide for consideration of any other types of gambling, such as Lotto or sports betting during the development or review of the Policy.

The legal requirements for the content of a Policy are that Council:

- **must** specify whether or not class 4 venues may be established in the territorial authority 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 a class 4 venue
- **may** include a relocation policy.

The considerations of Council in developing or amending a Policy include that they:

- **must** have regard to the social impact of gambling
- **can** consider a range of other matters (e.g. proximity to early childhood centres, churches, cumulative effects of additional gambling opportunities).

Legislative changes in 2013 require an additional step for the current review. Council:

- **must** consider whether to include a relocation policy in the Policy
- **must** consider the social impact of gambling in high-deprivation communities within the District If considering to include a relocations policy.

4. Background

Council is undertaking the three-yearly statutory process to review its Class 4 Gambling Venue Policy (the Policy).

While there is a requirement for the Policy to be reviewed, there is only a requirement to consult with the community should Council wish to propose any changes to the Policy. Should Council determine that there are no changes required to the existing Policy, then the review process is completed at that time.

Due to amendments to the Act in 2013, Council's current Policy must be changed so that it is consistent with the legislation. While the change is technically required, Council is still required to formally consult on any proposed amendments to the Policy.

On 28 March 2019, Council resolved to develop a Statement of Proposal to amend the Policy to comply with the legislative changes and to re-write the Policy in 'plain English' to make it easier to read.

On 24 April 2019 Council adopted a Statement of Proposal for consultation that gave effect to the decision made at the 28 March Council meeting.

Council must now deliberate on the matters raised in submissions.

5. Discussion

1.1 Submissions and Hearing

Council received 59 written submissions. In four instances, two or more submissions were received from a single organisation and these were combined into a single submission from that organisation. One submitter also attached a petition with 67 signatories to their submission.

At the Hearing, 21 submitters spoke to their submissions.

1.2 Matters raised in submissions

The matters raised in submissions have been analysed relative to the proposed changes. Most submissions received focussed on the substantive content of the Policy, however Council was not consulting on changes to those substantive matters.

1.3 Submissions on the proposed amendments to the Policy

Two submitters expressed their support for the proposed Policy amendments.

One submitter opposed the proposed change to clause 3.2b of the Policy and this was supported by a petition signed by 67 signatories.

Comments on any of the proposed changes regarding the revised 'plain English' format of the Policy were not received.

Officer advice

The key proposed amendment relates to clause 3.2b of the current Policy and section 97A of the Act. Section 97A of the Act now specifies that if a council allows venues to relocate, the number of machines relocated must be the same as allowed at the original venue.

The first sentence of clause 3.2b of the current Policy states that a maximum of nine machines are permitted through a relocation application. Under section 97A of the Act, a relocated venue may now have more than nine machines. As such, the Policy cannot specify a lower number and this part of the Policy must be removed.

Council cannot make policy that is inconsistent with national legislation, and to not make these changes would expose Council to risk. As such, the removal of clause 3.2b of the Policy is required to align with the current legislative provisions.

As no other issues were raised that require consideration, Council can proceed with the amendments to the Policy as consulted on, without further deliberations.

1.4 Other matters

The matters raised by submitters regarding the substantive aspects of the Policy are summarised below.

Matter	# of submitters	Matter	# of submitters
Support for current sinking lid policy	14	Support change to a capped policy	40
Support for removal or more restrictive relocations policy	7	Support less restrictive relocations policy	10
Support for more restrictive policy overall	5	Support less restrictive policy overall	2

Four submitters did not provide specific comment on the Policy approach, but made general statements:

- want current funding levels retained (2)
- general opposition to restrictions on gambling (1)
- reliant on Oxford Sports Trust funding (1).

Those submitters who requested a change to a 'capped' policy, expressed differing views on what the nature of the cap should be and how it should be operated into the future.

Options included:

- cap at current number of machines
- cap at current number of machines plus increase for population growth
- cap at 300 machines
- other options/unclear.

These submission points are outside the scope of the consultation, which was limited to the matters referred to in section 4 of this report. Due to this, the views expressed on the substantive aspects of the Policy are not necessarily reflective of wider community views on this matter. Individuals or organisations with an interest in the Policy may have not chosen to submit, as they had no comments on the proposed, largely administrative, changes and the consultation did not extend to the substantive matters.

Officer advice

The feedback received on the substantive matters of the Policy raises two key issues:

1. while 67% of all submitters requested changing the Policy to a 'capped' approach, there was not a single preferred 'type' of cap articulated in submissions. Further research and

analysis would be required to make a recommendation to Council on what a capped Policy approach should entail, if Council wished to pursue this option.

2. officer advice provided during the process was that without proposing substantive changes to the Policy for consultation in the Statement of Proposal, or making it clear that the consultation related to the entire policy, and not just particular amendments, irrespective of any submissions received on such matters, Council cannot make substantive changes to the Policy without further consultation.

This is for reason of procedural fairness – Council cannot now make changes to matters which were never ‘on the table’ during the consultation. To do so would expose Council to risk.

6. Options

In response to the issues outlined in section 5 of this report, the following options for consideration are provided.

Option 1

- a. Council, at the July 2019 Council meeting, confirms the amendments to the Policy as proposed in the Statement of Proposal.

This is the staff recommended option. Council may wish to consider consulting on substantive changes to the Policy during the next review process in 2022.

Option 2

- a. Council, at the July 2019 Council meeting, confirms the amendments to the Policy as proposed in the Statement of Proposal.

AND

- b. Council directs the Chief Executive to investigate substantive amendments to the Policy, to be reported back to Council for consideration and, if Council wishes to proceed, subsequent consultation as soon as practicably possible.

7. Significance and engagement

1.5 Significance

The decisions and matters of this agenda do not trigger the significance criteria of Council's Significance and Engagement Policy.

1.6 Engagement

Council has consulted with the community on the proposed amendments to the Policy in accordance with the statutory requirements of the Local Government Act 2002. The public will be informed via agenda publication on Council's website.

RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

1.	The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the information. {Section 7(2)(c)}
2.	To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {(Section 7(2)(i))}.
3.	To protect the privacy of natural persons. {Section 7(2)(a)}.
4.	Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court. {Section 48(1)(b)}.
5.	To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied. {Section 7(2)(c)(i)}.
6.	In order to maintain legal professional privilege. {Section 2(g)}.
7.	To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(i)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

"That _____ be permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of Item _____.

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____.

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.