



STAFF REPORT

TO: Environment and Planning Committee

FROM: Graham Caradus, Regulatory Services Co-ordinator

REFERENCE: E503

SUBJECT: **Report on Formal Consultation: Review of Tasman District Council Gambling Venues Policy- REPORT REP10-08-14**

1. INTRODUCTION

This report summarises and comments on the submissions received by Council during the formal period of consultation on the “Draft Gambling Venues Policy 2010”. The previous report to the Environment and Planning Committee on the matter, “*Statement of proposal: Review of the Gambling Venues Policy- Report REP10-05-15 – Report prepared for meeting of 20 May 2010*” is relevant as the intended consultation has triggered this report.

That previous report set out some of the options available to Council, and in general, suggested a “sinking lid” policy on non-casino gaming machines but left the policy relating to New Zealand Racing Board venues unchanged. At the meeting of 20 May 2010, the Environment and Planning Committee of Tasman District Council adopted the Draft Gambling Venues Policy (attached as “Attachment 1” of this report) for consultation pursuant to the processes defined in the Local Government Act 2002, the Gambling Act 2003 and the Racing Act 2003.

1.2 Statutory processes

The obligations to consult imposed by sections 83 and 89 of the Local Government Act 2002, section 102 of the Gambling Act 2003, and section 65E of the Racing Act 2003 have been met. At the time submissions were closed on 8 July 2010 a total of 37 submissions were received with 10 generally opposing, 23 generally supporting, and four neutral on the “sinking lid” policy, as proposed in the Draft Gambling Venues Policy 2010. No late submissions have been tendered. Further detail of submissions is contained in “Attachment 2” of this report. All submissions have been made available in full to the Councillors that make up the Environment and Planning Committee.

2. Technical Points Raised by Submitters

- 2.1 The submission from Jarrod True, solicitor and partner of Harkness Henry, Lawyers representing the New Zealand Racing Board makes comment, among other issues, on the requirement to adopt two separate policies: one for New Zealand Racing Board, and one for class 4 venue licences to allow the operation of non-casino gaming machines. The suggestion is, in summary, that

having two separate policies would provide clarity and in achieving that aim would be, quote, “unlikely to incur any additional cost”.

In combining both policies into one combined “Gambling Venues Policy” great care has been taken to ensure that the separate legislative requirements of the two statutes primarily involved have been completely met. There is no compulsion to have the policy statements in separate documents, and the process has been dealt with in this manner to achieve the best economies for the administrative demands on this small territorial authority. Apart from the review process, little other activity has occurred in recent years in relation to any gambling venues. It is therefore a function that typically (with the exception of policy development and review) does not place any great demands on staff resources. It is relevant that Mr True’s submission notes that there are approximately 100 New Zealand Racing Board stand-alone venues in New Zealand, and that currently none exist in Tasman District. It is logical to conclude that the only involvement for this Council in relation to New Zealand Racing Board stand-alone venues in the past has been associated with venues policy development.

At the time of the next review which will occur about August 2013, it is hoped that the policy relating to both class 4 venues and Board venues will be able to be “rolled over” without amendment or replacement, thus avoiding the expense associated with special consultative procedure which is mandatory where amendment or replacement is undertaken. No matter what review process is undertaken, be it roll-over or special consultative process, it appears logical that reviewing two separate policies at different times, will take two reports to Council rather than one, and that there will be a corresponding increase in the cost of that process.

There appears to be no confusion on the part of any submitters between the effects of policy relating to New Zealand Racing Board stand-alone venues and the class 4 venues associated with non-casino gaming machines. It is suggested that the general public would similarly have little difficulty in understanding the intent of the Draft Gambling Venues Policy August 2010.

If Council was convinced there is an advantage in separating out these sections of the policy and considered that action justified the additional administrative expense logically expected, it may be most convenient to achieve that at the time of the review in August 2013 so that the change in approach can be dealt with through the special consultative process from the initial step in the review process.

- 2.2 A number of submitters have requested that Council go further than that proposed in the Draft Gambling Venues Policy August 2010. For example, imposing host responsibility requirements through the policy; directing where profits may be distributed; allowing relocation of gambling machines or venues; and finally, banning gaming machines completely.

The policy that Council may set is limited by the relevant Acts, (Gambling Act 2003 and Racing Act 2003). In general it may only deal with the questions of whether gambling venues can be established within the District, if there are any restrictions that apply to locations, and in the case of non-casino gaming

machines, options exist to control numbers of machines and or numbers of venues. Those additional matters outside the intended scope of the legislation cannot therefore be considered by Council in this policy review, despite the wishes of submitters.

- 2.3 The list of operators of non-casino gaming machines contained in Appendix 1 of the Draft Gambling Venues Policy August 2010 has been amended to show that the Telegraph Hotel venue is now under the control of The Lion Foundation and that the gaming machines on the premises total nine.

3. General Summary of Matters raised in submissions

It is necessary for the hearing committee to carefully consider the detail contained in all submissions received on this matter. However, the discussions that are raised by the various submitters, with minor exception, generally fall into broad areas which either:

- a) express concerns about the negative effects of gambling or problem gambling or numbers of gambling machines (27 submissions);
- or,
- b) detail the positive aspects of the grants that are made from the profits taken from non-casino gaming machines and or consider existing controls are appropriate(10 submissions).

4. Pros and Cons

With the exception of the possibility of the separation of the two component parts of the policy discussed in 2.1 above, much of the debate around the negative effects of gambling versus the positive aspects of community grants occurred during discussion of the report which initiated the consultative process with the Draft Gambling Venues Policy August 2010 at the Environment and Planning Committee meeting of Thursday 20 May 2010. Council's Environment and Planning Committee will therefore be familiar with the reasoning behind both arguments. It will also be aware that the "sinking lid" policy is unlikely in the short term to cause a reduction in the number of non-casino gaming machines and therefore have little effect on funds available for community grants.

5. Recommendation:

- 5.1 That pursuant to the delegated authority provided by Tasman District Council to adopt policy, the Environment and Planning Committee adopts the Draft Gambling Venues Policy August 2010 contained as "Attachment 1" of this report and on which the formal consultation process has been concluded at this meeting on 17 August 2010.**
- 5.2 That the Draft Gambling Venues Policy August 2010 adopted in 5.1. above, come into effect on 31 August 2010 and that at that same time, the "Tasman District Council Gambling Act 2003 Venues Policy August 2007" be revoked.**

Graham Caradus
Regulatory Services Coordinator



The Gambling Act 2003 and The Racing Act 2003

Draft Gambling Venue Policy

August 2010

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1. PURPOSE

The Tasman District Council is required by the Gambling Act 2003 and the Racing Act 2003 to produce a policy that has regard to the social impact of gambling within the District. The Special Consultative Procedure under Section 83 of the Local Government Act 2002 and requirements of section 102 of the Gambling Act 2003 and section 65E of the Racing Act 2003 have been followed, with submissions being heard and the following resolution passed:

“5.1 That pursuant to the delegated authority provided by Tasman District Council to adopt policy, the Environment and Planning Committee adopts the Draft Gambling Venues Policy August 2010 contained as “Attachment 1” of this report and on which the formal consultation process has been concluded at this meeting on 17 August 2010.

5.2 That the Draft Gambling Venues Policy August 2010 adopted in 5.1. above, come into effect on 31 August 2010 and that at that same time, the “Tasman District Council Gambling Act 2003 Venues Policy August 2007” be revoked.”

CARRIED

2. OBJECTIVES OF THIS POLICY

- 2.1** To minimise the harm to the community caused by gambling.
- 2.2** To prohibit new non-casino gaming machine gambling machines or venues operating in Tasman District.
- 2.5** To allow new gambling venues associated with New Zealand Racing Board stand-alone operations if such new venues are supported by Council on a case-by-case assessment.
- 2.6** To allow those who wish to participate in gaming machine or New Zealand Racing Board racing or sports betting to do so safely and responsibly within the District.

3. NEW NON-CASINO GAMING MACHINES NOT PERMITTED

- 3.1** Operation of new non-casino gaming machines or venues shall not be permitted. This will be achieved by Council declining to provide territorial authority consent pursuant to section 98 of the Gambling Act 2003. The premises and details of the numbers of non-casino gaming machines currently operating are listed in Appendix 1 of this Policy.

4. NEW ZEALAND RACING BOARD GAMBLING VENUES

- 3.1** Venues for racing and sports betting operated by the New Zealand Racing Board may be established subject to:
 - (a) meeting application and fee requirements;
 - (c) the venue shall have relevant staff training programme and gambling harm minimisation policy;

- (d) applications for new venues for racing and sports betting operated by the New Zealand Racing Board shall be advertised, with public submissions being accepted for a period of 10 days from the date of publication, after which Council shall approve or decline the venue consent application, with reasons for that decision being made available to all parties that expressed a view;
- (e) the primary activity of the venue shall be for racing and sports betting operated by the New Zealand Racing Board, and be owned or leased by the New Zealand Racing Board and used primarily for racing or sports betting; or be a racecourse;
- (f) operators of the venue must show that people under the age of 18 years have minimal access to the facility.

5. APPLICATIONS

5.1 Must be made on the form defined in Appendix 2 of this policy and must provide:

- (a) evidence of a police clearance for owners and managers of the venue;
- (b) a copy of the proposed gambling harm minimisation policy and staff training programme;
- (c) a site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue;
- (d) name and contact details for the applicant;
- (e) street address of premises proposed;

6. APPLICATION FEES

6.1 Any application for a territorial authority consent under Section 65B of the Racing Act 2003 shall be accompanied by the appropriate deposit and all fees due for the processing of the application must be paid before the territorial authority consent will issue.

APPENDIX 1: Operators of non-casino gaming machines.

Society Name	Venue name	Address	Number of GM allowed without additional sanction from Council	Additional Gaming Machines that may be installed by right
Motueka Memorial R.S.A. Incorporated	Motueka Memorial RSA Incorporated	49 High Street, Motueka	9	-
Pub Charity	Collingwood Tavern	Tasman Street, Collingwood	4	-
Pub Charity	Junction Hotel (Takaka)	15 Commercial Street, Takaka	18	4
Pub Charity	Brightwater Motor Inn	1 Lightband Road, Brightwater	3	-
Pub Charity	Wakefield Hotel	48 Edward Street, Wakefield	16	6
The Lion Foundation	Motueka Hotel	77 High Street, Motueka	18	-
The Lion Foundation	Post Office Hotel	122 High Street, Motueka	18	-
Perry Foundation Trust	The Dodgy Ref Sports Bar	121 High Street, Motueka	9	-
Perry Foundation Trust	Riwaka Hotel	Main Road, Riwaka	6	2
Club Waimea Inc	Club Waimea	345 Queen Street, Richmond	18	-
New Zealand Community Trust	El Taverna	183 Queen Street, Richmond	18	-
New Zealand Community Trust	Tapawera Hotel	84 Main Road, Tapawera	3	-
New Zealand Community Trust	Mapua Tavern	151 Aranui Road, Mapua	12	4
New Zealand Community Trust	Star And Garter Hotel	252 Queen Street, Richmond	18	-
Trillian Trust	The Stables	1 McGlashen Avenue, Richmond	12	-
The Lion Foundation	Telegraph Hotel	2 Motupipi Street, Takaka	9	-
Eureka Trust*	Railway Hotel* (Now Robbie's Bar)	49 High Street, Motueka	14*	-*

APPENDIX 2: Application for Territorial Authority Consent for a Board Venue

FORM NUMBER: RG3 DATE: 31 August 2010 [Pursuant to section 65B of the Racing Act2003: Applies to new racing and sports betting venues.]

Section 1: Details of Applicant

Full Name of applicant:

Postal Address:

Post Code:

Contact Person:

Phone:

Fax:

E-mail:

Section 2: Details of Venue

Name of Venue:

Street Address:

Section 3: Information to be Provided with Application *(Please tick box)*

- Site plan covering activities proposed for the venue
- Evidence of a police clearance for the owners and managers of the venue
- A copy of the proposed gambling harm minimisation policy and staff training programme
- Evidence that the venue is leased or owned by the New Zealand Racing Board or a racecourse.

New Venues

Once an application for territorial authority consent for a new venue has been lodged, the applicant shall advertise the application in a local paper within 20 days of lodgement, giving a minimum of 10 working days for the acceptance of submissions by Council. If submissions are received, the Tasman District Council shall consider these and either approve or decline the venue consent application, with reasons for that decision being made available to all parties that expressed a view.

Application Fees

An application fee deposit of \$500.00 shall accompany any application. At the conclusion of the process when the application has been granted or declined, the applicant shall pay to Council such further fees necessary to cover the costs and disbursements of Council in processing the application. No such consent shall be issued by Council until all such fees have been paid.

The information that has been given is hereby certified to be true and correct.

Signature:

Date:

ATTACHMENT 2

Submission ID	Request to Speak at hearing	Oppose or support	First name	Second name	Individual or on behalf of organisation	Summary
264	Yes	Oppose	Gordon	Davidson	Nelson Cricket	Nelson Cricket is reliant on gaming machine funding
265	Yes	Oppose	Paul	Searancke	Individual	Any decrease in pokies will have detrimental effect on availability of funding. Significant shortfalls will either see decrease in activity or increase in funding from Council.
266	Yes	Support	Joe	Bell	Golden Bay Community Board	No more machines than presently exist in TDC licensed premises be permitted. Licenses at existing venues cannot be transferred to other premises. When licences lapse, they are cancelled. Operator's of venues be required to monitor users and mitigate problem gambling.
267	Yes	Oppose	Jarrold	True	New Zealand Racing Board	Requests Council to separate Board Venue policy and class 4 venue policy and have review and consultation of two policies done at different times. Remove public consultation requirement for every new application for a Board venue. Maintain the status quo uncapped policy for non-casino gaming machines.
268	No	Support	E & B	Currie	Individual	Believe that some official control of the numbers and distribution of the machines required.
269	No	Support	A M	Waters	Individual	More harm to the community from problems caused by gambling, than by any perceived gain by grants to local groups.
277	No	Oppose	Jeanette	Swift	Hospitality Association of NZ Nelson Branch	Supports a "cap" rather than "sinking lid" to preserve community funding at current levels. Gaming machines provide key fund raising mechanism for the community.

Submission ID	Request to Speak at hearing	Oppose or support	First name	Second name	Individual or on behalf of organisation	Summary
						Objectives of draft policy supported in relation to gambling harm minimisation. Policy should include the ability for relocation of gaming machines.
278	No	Support	Cassia	Warnes	Individual	Gaming machines encourage those who can least afford it to gamble
279	No	Oppose	Nigel	Muir	Sport Tasman	Acknowledge the positive aspects of community funding that comes from gambling venues. Believe new gaming machine numbers should be capped at an agreed number rather than completely prohibiting new machines or venues.
280	Yes	Support	Brenda	McQuillan	Problem Gambling Support Group	Has been harmed by pokie machine use since 1992.
281	No	Support	Murray & Judith	McCaskey	Individual	Support moves by Council to restrict or reduce gambling facilities.
282	No	Support	A E	Newman	Individual	Fully supports Council in its drive to reduce number of gambling venues. Concern with effects of problem gambling.
283	No	Support	Lynette	Tobin	Individual	Supports gambling reduction plan
284	No	Oppose	Mike	McGee	Tasman Golf Club	Tasman Golf Club has been recipient of several large grants from community gaming trusts. Does not support sinking lid policy.
285	Yes	Support	Richard	Butler	Nelson Marlborough District Health Board	NMDHB supports policy's draft objectives of minimising harm to community caused by gambling and prohibition on new non-casino gaming machines or venues.
286	Yes	Support	Mathew	McMillan	Te Kahui Hauora o Ngati Koata Trust	Form of gambling production operation in pubs is the type that is associated with the greatest degree of harm.

Submission ID	Request to Speak at hearing	Oppose or support	First name	Second name	Individual or on behalf of organisation	Summary
287	No	Support	Patrick	Duffy	Health Action Trust	In various roles at Health Action they see harmful results of consequences of addictive behaviour in terms of economic effects such as income loss and indebtedness and also mental health issues, domestic violence etc.
288	No	Support	Kay	Jones	Individual	Believes these machines are contributing to a rise in the number of people who become addicted to gambling. Supports reducing number of machines and encourages Council to ban them completely
289	Yes	Oppose	Joanne	Wood	The Lion Foundation	Recommend retaining current policy. Allow the transfer of existing venue conditions to another location. Lion Foundation has returned \$1,334,842 to local Tasman communities over last two years. Update of detail for Telegraph Hotel.
290	No	Support	Mark	Robinson	Holy Trinity Church	Vestry of Richmond Holy Trinity Church voted to support change of policy to "sinking lid". Gambling by use of pokie machines is a public health issue and can lead to problem gambling.
291	No	Support	M F	Robinson	Individual	Supports Council's proposal to reduce number of pokie machines through not replacing ones where a business closes.
292	Yes	Support	Philip	Townshend	Problem Gambling Foundation of New Zealand	Pokie gamblers in Tasman District lost \$6,318,873.33 in the year to March 2010. Pokies contribute to serious non financial losses to the community by contributing to social problems such as crime, domestic violence and poverty.
293	No	Neutral	Margaret	Plumstead	Individual	Already too many gambling machines which encourages addiction which often results in hurting whole families

Submission ID	Request to Speak at hearing	Oppose or support	First name	Second name	Individual or on behalf of organisation	Summary
294	No	Neutral	Marjery	Scott	Individual	Far too many gambling machines already
295	No	Support	Sapphire	Kaahu	Individual	Financial gains obtained from these machines are not worth the cost in human, family and community suffering. Asks that the policy developed work towards completely eliminating this form of gambling.
296	No	Neutral	H Keith	Biggs	St David's Presbyterian Church	St David's Presbyterian Church Pastoral Teams 17 members strongly object to any increase in facilities for gambling.
297	No	Support	Mary	Evers	Individual	Supports policy against further gambling machines and if possible reduce number. Concern with path to addiction and resulting crime and family break-up.
298	Yes	Oppose	Keith	Best	Country Kids Inc	Grants from community trusts have been instrumental in Country Kid's ability to complete its recent upgrade to modernise facilities in order to meet new regulations. This source of funding makes a big difference for organisations like this. Questions whether sinking lid approach would really solve the problem.
299	No	Support	Pauline	Marshall	Individual	Gambling can have disastrous results for both individuals and their families. Limiting number of pokie machines is something that Council can do.
300	Yes	Support	Judith	Cowley	Nelson Budget Service Inc	Some clients have gambling problems and accessibility to pokie machines is a big issue. Simplest way to help is sinking lid policy suggested by Council.
301	No	Support	Kathleen	Naylor	Individual	Machines can lead to gambling addictions. Supports gradual reduction in number of pokie machines.

Submission ID	Request to Speak at hearing	Oppose or support	First name	Second name	Individual or on behalf of organisation	Summary
302	No	Support	Madeline	McRae	Individual	Supports sinking lid policy. Sporting club grants from pokie machine profits are a very small percentage of the profit which comes from gamblers not having a big enough income to support their habit.
303	No	Oppose	Sally Ann	Hughes	NZ Community Trust	Community will lose out on funds that additional gaming machines could provide. Pokie playing is a valid entertainment choice. Robust systems are already in place to support problem gamblers. Number of problem gamblers is small (52 in Tasman in 2009) and is not related to the number of gaming machines.
304	No	Support	Alison	Heslop	National Council of Women - Tasman Local Issues	NCW believes gambling is detrimental to women and families, a great number of women gamble on pokie machines. Sinking lid policy has been implemented by at least 14 other councils throughout New Zealand.
305	No	Support	Elaine	Henry	Individual	Cannot justify funding sports and community facilities through gambling. Pokie machines are the most common form of gambling addiction. Sinking lid does not ban machines, just reduces them gradually.
306	No	Oppose	R A	Tonkin	Motueka Bowling Club Inc	Motueka Bowling Club has been substantial beneficiary of grants from community gaming trusts and strong recommend status quo remains. Reduction in gaming venues will not result in less problem gambling but will seriously reduce source of community funding.

Submission ID	Request to Speak at hearing	Oppose or support	First name	Second name	Individual or on behalf of organisation	Summary
307	No	Neutral	Chris	Hill	Manawhenua Ki Mohua	Support growth in non-casino gaming machines is prevented beyond numbers currently licensed. Do not support any increase in number of new venues, not number of machines in currently licensed venues. Where licenses for particular premises lapse they should be cancelled. License holders be required to ensure that a responsible gambling policy similar to responsible drinking is followed on their premises.