



# GAMBLING CLASS 4 AND RACING BOARD VENUE **POLICY**



Responsibility: Environmental Health

COUNCIL **P O L I C Y**

Adopted: July 2018

# South Waikato District Gambling Class 4 and Racing Board Venue Policy



Responsibility:	Manager Environmental Health
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## Introduction

The Gambling Act 2003 requires South Waikato District Council to have a policy on Class 4 venues (Gambling Venue Policy) for its district, and amended the Racing Act 2003 so that the Council must also have a policy on Board venues (Board Venue Policy). Council adopted its original policy on 5 March 2004 and must review every three years.

This reviewed policy forms the Statement of Proposal as required by the Gambling Act 2003 and the Local Government Act 2002.

Since the last review of 2013, the number of Class 4 venues operating in the district has remained constant as shown in Appendix 1. In coming months there will be a further reduction of venues and machines operating in the District. Council wishes to reduce the number of Class 4 venues and gambling machines numbers via a continuous sinking lid policy. The reduction in venues and machines will take place by a process of natural attrition as venues cease operating.

The Gambling Act 2003 also amended the Racing Act 2003. Council's Board Venue Policy established under Section 65D of the Racing Act 2003 must specify whether or not new Board venues may be established in the district and, if so, where they may be located. This review does not amend Council's stance in this regard.

Section 101(3) of the Gambling Act 2003 requires that the gambling venue policy:

- Must 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 gambling machines that may be operated at a Class 4 venue.

The South Waikato District Council Gambling Venue and Board Venue Policy covers Class 4 venues operated by societies and clubs, and also New Zealand Racing Board venues.

All current licensed Class 4 venues that have not ceased operations for more than six months, do not require consent from the Council to continue their operations.

Council has developed the Gambling Venue and Board Venue Policy with regard for the social impact of gambling within its district as required by the Gambling Act 2003 and the Racing Act 2003.

# Definitions

For the purpose of this Policy the following definitions apply in conjunction with Section 4 of the Gambling Act 2003:

**Board venue** means premises that are owned or leased by the New Zealand Racing Board and where the main business carried on at the premises is providing racing betting or sports betting services under the Racing Act 2003.

**Class 4 Gambling** means

- (a) gambling that is not gambling of another class as described by the Act and that satisfies the following criteria:
  - (i) the net proceeds from the gambling are applied to or distributed for authorised purposes:
    - (ii) no commission is paid to, or received by, a person for conducting the gambling;
    - (iii) the gambling satisfies relevant game rules; and
- (b) gambling that utilises or involves a gaming machine; or
- (c) gambling categorised by the Secretary [for Internal Affairs] as Class 4 gambling.

**Class 4 Venue** means a place used to conduct Class 4 gambling as described by the Act.

**Club** is defined for the purposes of clause 8 and means a voluntary association of persons combined for a purpose other than personal gain (recognised incorporated society – refer to Appendix 1).

**Council** means South Waikato District Council

**Community facility** means any premises (including land) where community gatherings occur.

**Existing venues** means the premises referenced and listed as operational as at 31 December 2012. Refer to Appendix 1 (Comparison Chart 2009/2012).

**Gambling machine** means

- (a) a device, whether totally or partly mechanically or electronically operated, that is adapted or designed and constructed for use in gambling; and
- (b) includes a device for gambling that is conducted partly by a machine and partly by other means; and
- (c) includes a device, or type of device, that is declared to be a gaming machine by regulations made under section 368; but
- (d) does not include—
  - (i) a device used only to draw a lottery; or
  - (ii) a random selection device used in a game of housie; or
  - (iii) a device used only to dispense tickets that is not capable of being used to decide the outcome of gambling; or
  - (iv) a communication device that is used both to dispense tickets in and draw a lottery that is a sales promotion scheme; and
- (e) does not include a device, or type of device, that is declared not to be a gaming machine by regulations made under section 368; and
- (f) does not include a device operated by the Lotteries Commission.

**New Class 4 venue** means any premises not referenced and listed within Appendix 1 of this Policy (refer Comparison Chart 2009/2012).

**Sinking lid regime** means as a Board Venue or Class 4 Venue that ceases operation or is closed and does not resume gambling activities within six months, Council will not grant consent for the establishment of any new venue, except relocation under specific circumstances in accordance with Clause 7.

**Society** means an association of persons established and conducted entirely for purposes other than commercial purposes.

# Policy Objectives

- To support the purpose and intent of the Gambling Act 2003, the Gambling (Gambling Harm Reduction) Amendment Act 2013 and the Racing Act 2003.
- In accordance with the aforementioned statutes, control the growth of gambling in the South Waikato thereby minimising harm caused by gambling.
- To control and further limit the number of Class 4 Venues as well as the number of gaming machines. Specifically to reduce the number of venues and machines throughout the district by way of sinking lid regime.
- To contribute to the minimisation of harm caused by gambling, including problem gambling, in South Waikato District.
- To avoid additional concentrations of gambling venues within the district.
- To facilitate community access to information about the distribution and operations of Class 4 venues within the district.
- To provide registered corporate societies which manage Class 4 Venue and Racing Board venues in South Waikato District with opportunities to generate funds for the purposes of distribution for local, regional and national community benefit.
- To enable people who are entitled to participate in Class 4 and TAB gambling in South Waikato District to do so.
- To ensure that actual and reasonable costs relating to venue consent applications are paid by the applicant(s).
- To exclude Board Venues from operating as Class 4 Venues.
- Council's intent is not to have any new Class 4 and Board Venues, however relocation provisions are provided to safeguard existing venue operators when continued business is affected through no fault of their own.

## Scope of Policy (Gambling Act 2003 Section 98)

This Policy applies to:

- All venues established after 17 October 2001.
- A Society applying to increase the number of gambling machines that may be operated at a venue.
- Venues for which no Class 4 Venue Licence has been held for the last six months.
- An application for a new Class 4 Venue.
- An application pertaining to the merger of two or more clubs that hold Class 4 Venue Licences [to avoid doubt, this only applies to Clubs as specified in section 95 of the Act].

## Principles

Section 101 of the Gambling Act stipulates that the Council's Class 4 Venue Policy:

- Must specify whether or not Class 4 venues may be established in the territorial authority's District and, if so, where they may be located; and
- May specify any restrictions on the maximum number of gaming machines that may be operated at a Class 4 venue.

Section 65D of the Racing Act 2003 stipulates that the Council must adopt a Board Venue Policy. In essence, a Board venue is a stand-alone gambling facility operated by the New Zealand Racing Board. The Policy must specify whether or not new Board venues may be established in the territorial authority's district and, if so, where they may be located.

In adopting both policies, the Council is required to have regard to the social impact of gambling within its District.

# Policy Statement

## 1. Numbers and Location of Class 4 Venues and Board Venues

Council will not grant consent for the establishment of any new Class 4 venues, board venues, or gaming machines as of the adoption of this policy.

## 2. Clubs and Ministerial Discretion

- (a) In the case of two or more clubs wanting to merge, section 95 of the Act will apply.
- (b) Council at its sole discretion may grant site approval for two or more clubs wishing to merge.
- (c) Council reserves the right to consider any club merger against the possible harm and/ or wellbeing of the wider community. Furthermore, the objectives of the Class 4 and Racing Board Venue Policy will be considered by Council prior to its formal decision.
- (d) Site approval will not be granted if one or more of the merging clubs are located outside of the district.
- (e) The sum of the number of gaming machines specified in all of the club Class 4 venue licences at the time of the application must not exceed a 50% reduction from the second and subsequent club(s) eg.  $18 + 18 - 9 = 27$ .

## 3. Signage

All matters pertaining to signage for Class 4 Venues and Board Venues will be governed by the South Waikato District Plan and the Public Places Bylaw 2017.

## 4. New Venues

With the exception of Clause 6 (relocation of existing venue), there shall be no new Racing Board venues or Class 4 venues as of the adoption of this policy.

## 5. New Zealand Racing Board Venues

- (a) As referenced within the Policy Objectives, Council shall not allow Board venues to operate as Class 4 venues.
- (b) Council will not permit the establishment of any additional Board venues within the District. Furthermore, the sinking lid regime applies to Board venues.

## 6. Relocation of existing Class 4 Venues and Board Venues permitted under specific circumstances

- (a) Council at its sole discretion, under circumstances it deems exceptional, may permit existing Class 4 venues or Board venues to re-establish at a new site where due to circumstances beyond the control of the operator or lessee of the premises, the premises cannot continue to operate at the existing site. Examples of such circumstances include but are not limited to the following:
  - o Acquisition of property under the Public Works Act;
  - o Substantive site redevelopment by a new owner;
  - o Natural disaster
- (b) Any permission to establish a new Class 4 venue or Board venue under clause 6(a) will be subject to the following conditions:
  - i. The intended holder of the Class 4 venue licence and the owner or lessee of the premises in which the machines are located at the new site must not exceed the number permitted by the Gambling Act 2003 and will be subject to section 94.

- ii. In accordance with Section 97A of the Gambling Act 2003, when a relocation is sought under this relocation provision, the new venue may operate up to the same number of machines that were permitted to operate at the old venue immediately before the old venue licence was cancelled as a result of the relocation.
- iii. In accordance with Section 97A(2)(c) of the Gambling Act 2003, when the new venue is established following the consent being granted under this relocation provision, the old venue is treated as if no Class 4 venue licence was ever held for that venue.

7. Where Class 4 Gambling Venues and Board Venues may be established on relocation

- (a) Any Class 4 venue (which is not a club) and any Board venue may be established in the District in accordance with clause 6, where it is a permitted activity under the South Waikato District Plan, or where resource consent to undertake the activity has been granted by Council.
- (b) Any Class 4 venue or Board venue established under clause 7(a) should not be located within 200 metres of any kindergarten, early childhood centre, school, place of worship, hospital, nursing home, rest home, or other community facility.
- (c) Any Class 4 venue which is a club may be established in the District in accordance with clause 6 where it is a permitted activity under the South Waikato District Plan or where a resource consent to undertake the activity has been granted by Council but no such venue should be located within 200 metres of any kindergarten, early childhood centre, school, place of worship, hospital, nursing home, rest home, or any other community facility.

8. Commencement of Policy

The Policy will take effect from 5 March 2004.

## Relevant Delegations

Council has not delegated the decision-making required under this Policy.

## References and Relevant Legislation

- o Gambling Act 2003 Section 101.
- o Racing Act 2003 Section 65D.
- o Local Government Act 2002.
- o The Gambling (Gambling Harm Reduction) Amendment Act 2013

## Annotations

Res No	Date	Subject/Description
68/04	05/03/04	Adopted
C07/09	08/03/07	Amended/confirmed as part of review process
10/102	15/04/10	Amended/confirmed as part of review process
13/218	01/08/13	Amended/confirmed as part of review process
18/209	02/07/18	Amended/confirmed as part of review process

# Appendix 1

## Class 4 Gambling Machines Comparison Chart 2012-2018

Venue Occupier	Approved Site Address	(Operator) 2012 Society	(Operator) 2018 Society	Number of machines 2012	Number of machines 2018
<b>Tokoroa</b>				<b>133</b>	<b>133</b>
Retox Sports Bar	204 Rosebery Street	Endeavour Community Foundation Ltd	Pub Charity Ltd	18	18
Pockets 8 Ball Club Inc*	38 Bridge Street	Pockets 8 Ball Club	Pockets 8 Ball Club Inc.	18	18
Pockets 8 Ball Lounge*	42 Mannering Street	Pockets 8 Ball Club 2	Pockets 8 Ball Club Inc.	16	16
H2O Gaming & Sports Bar	233 Leith Place	Grassroots Trust Ltd	Constellation Communities Trust Ltd	18	18
The Olde Establishment*	220 - 222 Mannering Street	The Olde Establishment Incorporated	The Olde Establishment Incorporated	9	9
The Trees Tavern	Corner Balmoral Drive and Browning Street	First Sovereign Trust Ltd	First Sovereign Trust Ltd	18	18
Tokoroa Club*	Chambers Street	Tokoroa Club Inc.	Tokoroa Club Inc.	18	18
Tokoroa Cosmopolitan Club*	275 Balmoral Drive	Tokoroa Cosmopolitan Club Inc.	Tokoroa Cosmopolitan Club Inc.	18	18
<b>Putaruru</b>				<b>45</b>	<b>45</b>
Crown and Anchor	4 Princes Street	First Sovereign Trust Ltd	First Sovereign Trust Ltd	9	9

Hog and Hounds Sports Bar	57 - 61 Tirau Street	Trillian Trust	The Lion Foundation (2008)	9	9
Putaruru District Services Memorial Club*	35 Buckland Street	Putaruru District Services Memorial Club Inc.	Putaruru District Services Memorial Club Inc.	9	9
Putaruru Hotel - Public Bar	79 Princes Street	Pub Charity Inc.	Southern Trust	18	18
<b>Total number of machines</b>				<b>178</b>	<b>178</b>
<b>Total venues</b>				<b>12</b>	<b>12</b>
* Club as defined in Policy for purposes of Clause 8					

### **Racing Board Venues Comparison Chart 2012 - 2018**

<b>Venue Occupier</b>	<b>Approved Site Address</b>		<b>Venues 2012</b>	<b>Venues 2018</b>
<b>Tokoroa</b>				
Tokoroa TAB*	Mannering Street		1	0
<b>Total number of venues</b>			<b>1</b>	<b>0</b>
* Venue ceased trading in early 2018				