

The Council, in considering each matter, must be:

- (a) Satisfied that it has sufficient information about the practicable options and their benefits, costs and impacts, bearing in mind the significance of the decisions;*
- (b) Satisfied that it knows enough about and will give adequate consideration to the views and preferences of affected and interested parties bearing in mind the significance of the decisions to be made.*

Significance Consideration

Evaluation : Council officers, in preparing these reports have had regard to Council's policy on significance. Council, Committee and Community Board members will make the final assessment on whether the subject under consideration is to be regarded as being significant or not. Unless Council a Committee or the Community Board explicitly determines that the subject under consideration is to be deemed significant then the subject will be deemed as not being significant.

BULLER DISTRICT COUNCIL
FOR THE MEETING OF 22 SEPTEMBER 2009

Report for Agenda Item No 1

Prepared by – Craig Scanlon
- Manager Community & Environment

Members Interest

Councillors are encouraged to consider the items on the agenda and disclose whether they believe they have a financial or non-financial interest in any of the items in terms of Council's Code of Conduct.

The attached flowchart may assist councillors in making that determination (Appendix A from Code of Conduct)

Recommendation

That councillors disclose any financial or non-financial interest in any of the agenda items.

BULLER DISTRICT COUNCIL**FOR THE MEETING OF 22 SEPTEMBER 2009****Report for Agenda Item No 2**

**Prepared by – Rachel Townrow
- Policy Planner**

**Hearing of submissions on the Draft Class 4 Gambling and Totalisator
Agency Board (TAB) Venue Policy**

Background

The Gambling Act 2003 and the Racing Act 2003 require councils to have a policy specifying whether or not Class 4 gambling venues and Totalisator Agency Board (TAB) venues may be established in their district and, if so, where they may be located.

Buller District Council first adopted its Class 4 Gambling Venue Policy in 2004. This policy was reviewed in 2006 and no changes were made. The policy has been reviewed again this year as the Gambling and Racing Acts require that these policies are reviewed every three years. Changes to the policy have been proposed following this review.

At its meeting of 22 July 2009 Council resolved to:

Initiate the Special Consultative Procedure in the Local Government Act, using the Draft Class 4 Gambling and TAB Venue Policy as the basis for seeking feedback.

Written submissions were received on the draft policy between 27 July and 31 August. Submitters have the opportunity to address Council on their submissions before Council makes a decision on the policy at its meeting of 23 September.

The hearing is being held in Westport on 22 September, rather than at the meeting in Karamea on the 23rd, to allow submitters to travel to and from Westport in one day.

Submissions

Ten submissions have been received on the draft policy. All submitters were generally in support of the draft policy, though some have requested changes.

All submissions are attached to this report. Submitters were all given the opportunity to speak to their submissions and six submitters have indicated that they would like to take this opportunity.

Submitters have been allocated a maximum of ten minutes speaking time. Councillors may question submitters if there are matters they would like clarified. The timetable for submitters to speak is as follows:

Submitter	Time
Kawatiri Maori Women's Welfare League	11.00am
Buller Te Rito Family Violence Network	11.10am
Problem Gambling Foundation	11.20am
New Zealand Racing Board	11.30am
The Lion Foundation	11.40am
Westport Trotting Club	11.50am

Summary of submissions

- *Kawatiri Maori Women's Welfare League and Buller Te Rito Family Violence Network*

The submissions of these two organisations covered the same issues and will be summarized together.

They have requested the following:

1. a sinking lid policy on machine and venue numbers;
2. a review of the policy every 18 months rather than three yearly; and
3. that Council conduct a social impact study in collaboration with other agencies before the next review of the policy.

If Council does want to introduce a cap on machine and/or venue numbers, a sinking lid policy is one way to do this. This would mean that no new Class 4 venues could establish in Buller, and none could resume operations. If a sinking lid policy were adopted, the restrictions on the maximum number of machines could remain in the policy. Information from the Ministry of Health suggests that sinking lid policies make very little difference to the existing number of machines or venues, as they affect a limited number of venues.

It is noted that the Gambling and Racing Acts specify that all territorial authorities must review their Class 4 gambling and TAB venue policies every three years. This statutory requirement suggests that three-yearly is an appropriate interval for review, though there is nothing to stop Council deciding to review the policy 18 monthly rather than three-yearly.

The cost of reviewing the policy is paid for out of general rates. Advice received from the Department of Internal Affairs suggests that it is not appropriate to apply a portion of fees received for venue consents to cover the costs of reviewing the policy.

A social impact study was conducted in 2003 before the policy was adopted and a report on the impacts of gambling in Buller was compiled for the current review. It is felt that these reports, and the ability for agencies to make submissions and address Council, sufficiently cover the social impacts of gambling in Buller and allow Council to take these into account when making decisions on this policy.

The costs involved with compiling reports for the policy review are paid for out of general rates.

- *Problem Gambling Foundation of New Zealand (PGF)*

PGF have requested that Council adopts a sinking lid policy on machine and venue numbers.

Their other request, that Council advocate to Central Government for a review of how funds from Class 4 venues are distributed, is something Council could do but this is outside the scope of this policy.

- *New Zealand Racing Board (NZRB)*

NZRB have requested the following:

1. that Council adopt separate policies for Class 4 gambling venues and TAB venues;
2. that the primary activity of Class 4 venues requirement be amended to include sports and racing betting, which will allow TAB venues to also be Class 4 venues;
3. that the requirement for community consultation on every consent application be deleted; and
4. that Council does not set a cap on Class 4 machine and/or venue numbers.

The Gambling and Racing Acts require councils to adopt policies for both types of venue. A number of councils combine their Class 4 and TAB venue policies, and advice received from the Department of Internal Affairs suggests that a combined policy is acceptable. Council could however decide to have separate policies for the different types of venues. Given that both policies are required to be reviewed every three years, it is likely that the policies would continue to be discussed at the same time, even if they were separate.

At para 29 of their submission, NZRB suggest additional wording around the primary activity at Class 4 venues. This change would allow NZRB venues, which do not sell alcohol, to also operate Class 4 gaming machines. Section 33 of the Gambling Act allows NZRB venues to also be Class 4 venues.

Given how this part of the policy is worded, it may be better for the draft to be amended as follows, if it were considered that NZRB venues should also be allowed to be Class 4 venues (changes to the draft are underlined):

Class 4 gambling venues and TAB venues may be established in Buller subject to:

1. meeting application and fee requirements; and
2. the primary activity of the premises being onsite entertainment, recreation, or leisure focused on persons 18 years and over.

Class 4 gambling venues may only be established in premises that are either:

1. authorised under the Sale of Liquor Act 1989 to sell and supply liquor for consumption on the premises; or
2. Board venues under the Racing Act 2003.

- *The Lion Foundation*

The Lion Foundation requests that a cap be set at the existing number of machines and venues (note that any cap can be no less than the 88 machines and/or 10 venues currently able to operate).

They also commented on the public consultation requirements in the draft policy.

- *Westport Trotting Club Inc (WTC)*

WTC supports the draft policy.

They do not believe that there should be a cap on machine and/or venue numbers.

- *Buller Community Development Company (BCDC)*

BCDC generally agree with the draft policy.

They have requested that where a venue currently operates less than nine machines, that the maximum number of machines allowed at that venue be nine rather than 18. This could be achieved by making the following change to the draft policy (changes to the draft are underlined):

The maximum number of gaming machines allowed at Class 4 venues are as follows:

- Class 4 gambling venues licenced after 17 October 2001 shall be allowed a maximum of nine gaming machines.
 - Where a Class 4 gambling venue licenced before 17 October 2001 was operating more than nine gaming machines on 22 September 2003, the maximum number of gaming machines allowed at that venue shall be the number that were operating on 22 September 2003.
 - Where a Class 4 gambling venue licenced before 17 October 2001 was operating nine or fewer gaming machines on 22 September 2003, the maximum number of gaming machines allowed at that venue shall be nine.
- *The Southern Trust*

The Southern Trust does not support a cap on machine and/or venue numbers. They request that Council's policy enable gaming machine operators to "continue supporting the Buller community at the greatest possible level.

- *Pub Charity Incorporated (PCI)*

PCI supports the draft policy and does not support a cap on machine and/or venue numbers.

- *Perry Foundation*

Perry Foundation supports the draft policy and does not support a cap on machine and/or venue numbers.

They commented on the following purpose in the policy,
 “To manage the establishment of... venues to minimise the adverse effects of gambling on the Buller district”.

They believe that the benefits of New Zealand’s charity gaming model need to be taken into account when assessing the balance between establishing venues and minimising adverse effects. They note that the Gambling Act also requires Gaming Trusts to work to minimise the adverse effects of gambling.

Conclusion

There is general support for the draft policy. Changes have been requested to the requirements around the “primary activity” at Class 4 gambling venues to allow venues owned by the NZRB to also be Class 4 venues, and to the maximum number of machines allowed at venues which are currently operating fewer than nine machines. It has also been requested that Council consider having separate Class 4 gambling venue and TAB venue policies.

Two submitters suggested changes to the public consultation requirements in the draft policy.

Three submitters requested Council adopt a ‘sinking lid’ policy on venue and machine numbers, one submitter requested that machine and venue numbers be capped at the current level and six submitters requested that Council does not adopt a cap on machine or venue numbers.

Considerations

Section 101 of the Gambling Act 2003 states that in determining its Class 4 venue policy Council may have regard to any relevant matter including:

- (a) the characteristics of the district and parts of the district:
- (b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities:
- (c) the number of gaming machines that should be permitted to operate at any venue or class of venue:
- (d) the cumulative effects of additional opportunities for gambling in the district:
- (e) how close any venue should be permitted to be to any other venue:
- (f) what the primary activity at any venue should be.

Section 65D of the Racing Act 2003 states that in determining its TAB venue policy Council may have regard to any relevant matter including:

- (a) the characteristics of the district and parts of the district:
- (b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities:
- (c) the cumulative effects of additional opportunities for gambling in the district.

Decision

Council is required to adopt a policy on Class 4 gambling and TAB venues. Council can decide to adopt the draft policy in its entirety or to make amendments to the draft policy before it is adopted.

Recommendation

That Council consider the submissions on the *Draft Class 4 Gambling and Totalisator Agency Board (TAB) Venue Policy* and adopt a Class 4 Gambling and Totalisator Agency Board (TAB) Venue Policy at its meeting of 23 September 2009.