



# Gambling Venue Policy 2019



## **1. Context and goals**

The Gambling Act 2003 (Act) seeks to ensure that:

- gambling is used primarily to raise funds for community purposes;
- the harm caused by gambling is prevented or minimised;
- the growth of gambling is controlled; and
- there is local involvement in decisions about the availability of more risky forms of gambling.

The Gambling Venue Policy (Policy) identifies Matamata-Piako District Council's (Council) responsibility and role in meeting these goals and objectives within the Matamata-Piako District (district).

This Policy covers Class 4 Gambling Venues. A separate policy covers TAB Board Venues established under the Racing Act 2003.

## **2. Community awareness**

Council recognises that gambling is an issue of interest for many communities. Many of the groups who may be interested or concerned about the social, community and individual harms arising from gambling, do not always have access to up to date literature and reference material. To address this, Council collates relevant information each time the Policy is reviewed, which can be made available upon request to assist the local community and local agencies interested in this topic. Under the Act, reviews of this Policy must have regard to the social impact of gambling within the district.

In order to involve the community in the licensing of gambling venues, requirements are included in this Policy for applicants to publicly advertise their intention to operate one or more gaming machines and to request submissions be made to Council on public opinion and perspectives regarding the granting of a consent for the venue in question.

### **2.1 What this means**

Council will endeavour to engage relevant stakeholders at the time of each policy review in order to gather the following information and establish trends:

- Monitoring of the social effects of gambling in the District.
- Collection of statistical data from the Department of Internal Affairs.
- Identification of issues associated with problem gambling in the District.
- Recommendation of changes to the Council on its Class 4 Gaming policy.
- Identification of projects supported and grants awarded by gaming machine proceeds through trust and societies.

Information on social harm, gambling proceeds and the number of class 4 gaming venues in the district can be obtained from the Problem Gambling Foundation and the Department of Internal Affairs website. In addition to the above data, Council will collect and make available district specific information concerning the number and location of gambling venues operating in the district, the number of machines licensed, and the formulae and rationale behind any licensing decisions. This information can be made available upon request.

### **3. Harm minimisation**

Gaming machine operators are required in their licensing process to demonstrate a satisfactory level of compliance with responsible gambling codes of practice, ethical operations, and practices of problem gambling harm minimisation as deemed acceptable by the DIA.

#### **3.1 What this means**

As the regulation of gaming machine operators is the responsibility of the DIA, Council will not require applicants to establish their reliability as an operator.

However, should the DIA decline an application for a venue licence and the applicant fails to secure such a licence within six months of the venue consent being granted by Council, any venue consents issued for a property will be considered void, this includes any existing use rights (this condition applies to societies operating machines prior to 17 October 2001 under section 92 of the Act).

### **4. Community benefit**

One of the identified benefits of gaming machines in the community is increased availability of community funding. In order to monitor the benefits versus harms of local gambling, it is expected that, where gaming machines are operating in the area, operators will be able to identify local recipients of charitable funding directly arising from gambling revenue. It is anticipated that evidence will be available to demonstrate that the funding made available will be comparative to the levels of revenue generated in the local area.

#### **4.1 What this means**

Where appropriate, societies already operating machines in the district will be required to provide details with their application that outline the recipients of society funding over the last three years.

Where applications are received from societies not currently operating machines in this area, evidence of policies aimed at actively returning funding obtained from the district back to the local community or club members will be considered instead of past history.

### **5. Venue location**

New class 4 gambling venues must meet the venue location requirements outlined in this Policy.

#### **5.1 Zoning**

Applications for new class 4 gambling venue consents will only be considered for premises holding a current alcohol licence and that meet the requirements of the Matamata-Piako District Plan.

#### **5.2 Community views**

In the interests of protecting long term community interests, Council will not consider applications for gambling venues within 250 metres of a place of assembly, a community facility, a school, or childcare service unless the application is accompanied by signed affected party responses in the form prescribed by Council from the authorised

representatives of such affected organisations, indicating their views on the establishment of the proposed venue.

Where an authorised representative of an affected organisation has expressed opposition to the proposed gambling venue, Council will require the affected party and proposed operator to present their arguments to Council or any hearing panel with delegated authority from Council to consider the application.

Council will not grant a new class 4 gambling venue consent when a statement expressing agreement has not been provided for an affected organisation without good reason. Definitions of the affected parties referred to by these terms are outlined in section 10 of this Policy.

Class 4 gambling venues must not allow any gambling activity to be visible to passing pedestrian traffic.

### **5.2.1 Exemptions**

Class 4 gambling venues applying for an increase in the number of machines operated, who have previously obtained letters of agreement from affected parties are exempt from this step of the process. Applicants exempt under section 5 of this Policy are instead required to comply with section 8.1.1 and publicly notify their application.

### **5.3 What this means**

Applicants seeking to increase the number of gaming machines operated will need to meet with, and discuss their proposed applications to their neighbouring facilities and venues. It is at the applicant's discretion whether they perform this requirement themselves or leave it to be done by Council within the application process. Where an applicant chooses for Council to contact the affected parties on their behalf, they will be required to meet any costs incurred.

Affected party response statements of agreement in the form prescribed by Council should be provided to Council with any application.

### **5.4 Relocation Policy**

Council will consider granting consent for relocation of existing class 4 venues if;

- the premises cannot continue to operate at the existing site, examples of such circumstances include, but are not limited to natural disaster, fire, or the premises is unfit to continue to operate
- the premises wishes to move to a more appropriate venue within the same area.

When considering granting consent for relocation Council will take into consideration the social impact of gambling on high deprivation areas as well as all other considerations applicable for applying for a new licence. Deprivation levels will be based on the 'NZDep2013 Index of Deprivation' or any subsequent update/revision of this work published.

## **6. Function**

The Act requires Council to consider the primary function of a proposed venue and states that it should not be a venue with gambling as its primary activity.

## **6.1 Sale of alcohol**

Council will require applications for new class 4 gambling venue consents to be able to provide evidence that the venue is/or will be authorised by the Sale and Supply of Alcohol Act 2012 to sell and supply alcohol for consumption on the premises.

The majority of gambling venues with gaming machines are within a premises with a current alcohol licence. If Council has a Local Alcohol Policy in force at the time then the most restrictive of the Policies will prevail.

As Council also considers TAB board venues to be appropriate venues for the operation of class 4 gaming machines, standalone TAB board venues are exempt from this clause.

## **6.2 Primary focus**

An applicant will be required to provide evidence to Council that the character and focus of any proposed venue will have activities other than class 4 gambling as their primary focus. This applies to proposed naming, signage and the location of the machines relative to other activities. Where a new application is being made a description or business plan of the proposed venue may be required.

## **6.3 Association with family and children's activities**

Consideration will not be given to proposed venues such as sports clubs, family restaurants or other venues where families and young people under 18 are likely to be present.

## **7. District machine limits**

In the public consultation conducted for the development of the original policy in 2007, a strong preference was indicated for maintaining the status quo while allowing room for future growth of the industry. To accommodate this input a district cap was developed based on the ratio between the over 18 population of the district and the number of gaming machines.

The proposed system was intended to limit both the number of machines a venue can operate and the number of venues available in the district in relation to the population size. While there was some concern that this system may benefit existing venues that have already captured the majority of machines that might come under a district machine cap, it was felt to be the most effective method of addressing community concerns while allowing for future development.

Applications for class 4 gaming venues will be considered based on the ratio of existing venues to the community population aged 18 and over (based on 2017 population estimates); the ratios are outlined in section 7.3 and 7.4 of this Policy.

### **7.1 Clubs**

The sentiments of the community as represented through the public workshops in 2007 were that clubs should not be considered differently from public venues for the purposes of class 4 gambling venue consents. Therefore this Policy does not differentiate between venue types for the purpose of machine limits and venue caps except in the instance of club mergers.

### **7.2 Relevance**

The provisions outlined here apply to organisations applying for, or who sought, licensing after 17 October 2001, who are applying to increase the number of machines operated in

their venue, or who have failed to hold a class 4 venue licence for the venue in question for the last six months.

Operators who are relocating their place of operation to a site that is not already listed on a class 4 gaming licence will be required to make an application as an operator seeking a new venue consent.

Venues licensed prior to 17 October 2001, who have failed to hold a class 4 venue licence for the venue in question for the last six months, will be required to apply to Council for venue consent and will be subject to the conditions of this Policy.

Except for the conditions stated above, machine operators who held their licence prior to 17 October 2001 are not subject to the limitations outlined in this Policy. However, the number of machines operated by existing operators will have an ongoing impact on any future licensing in the district due to venue limits imposed through this Policy.

Machine operators licensed prior to 17 of October 2001 are limited by the Act to 18 machines for that venue.

Where applications are required from venues licensed prior to the 17 of October 2001 who have maintained a valid venue licence, they will not be required to operate a lesser amount of machines than they currently operate.

**7.3 Machine ratios**

In Council’s community consultation held to assist in the development of this Policy in 2007, a strong preference was expressed on the part of the three main towns of the district to maintain the status quo of machine density to the 2006 population size. Council is proposing to maintain the current cap set by ratios based on the 2017 population estimates set by Statistics New Zealand. This will maintain the existing number of machines permitted to be operating whilst reflecting a more up to date population level for the district.

Currently 201 machines are permitted to operate in the district. Consent will not be granted to allow more than 201 machines in the district.

Each town is defined by the Statistics New Zealand Statistical Area 2 (SA2), with Matamata being the sum of Matamata North and Matamata South; Morrinsville being the sum of Morrinsville East and Morrinsville West and Te Aroha being the sum of Te Aroha East and Te Aroha West. The rural area is the sum of Tahuna-Mangateparu, Mangaiti, Tatuanui, Waihou-Manawaru, Tahuroa, Waitoa-Ngarua, Richmond Downs-Wardville, Waharoa-Peria, Hinuera Okauia and Te Poi. If any of these rural areas are developed beyond current population density consideration will be made at the time of the next gambling policy review in 2022 to consider them as area units separate from the rural sum.

	Population <sup>1</sup> over 18 as at 2017 population estimates	Ratio limit (gaming machines to people)	Number of machines permitted to be operating
Matamata	6,124	1:77	80

<sup>1</sup> Calculating the over 18 population figures from Statistics NZ population estimates, as at 30 June 2017 is problematic as the categories used have 5 year increments (i.e.15-19 and 20-24). For the purposes of population levels in this instance an approximate has been used by adding 2/5<sup>ths</sup> of the 15-19 total to the 20+ population.

Morrinsville	5,866	1:105	56
Te Aroha	3,382	1:68	50
Rural	10,940	1:729	15
<b>TOTAL</b>	<b>26,312</b>		<b>201</b>

#### 7.4 Venue ratios

In the Council's community consultation held to assist in the development of this Policy in 2007, a strong preference was expressed on the part of the three main towns of the district to maintain the status quo of gambling venues to the 2006 population size. Recognising this preference, the ratio limits between gambling venues in each town and the town's population have been calculated to maintain the current density of gambling venues. The ratio is based on the 2017 population estimates set by Statistics New Zealand.

Each town is defined by the Statistics New Zealand Statistical Area 2 (SA2), with Matamata being the sum of Matamata North and Matamata South; Morrinsville being the sum of Morrinsville East and Morrinsville West and Te Aroha being the sum of Te Aroha East and Te Aroha West. The rural area is the sum of Tahuna-Mangateparu, Mangaiti, Tatanui, Waihou-Manawaru, Tahuroa, Waitoa-Ngarua, Richmond Downs-Wardville, Waharoa-Peria, Hinuera Okauia and Te Poi. If any of these rural areas are developed beyond the current population density, consideration will be made at the time of the next gambling policy review in 2022 to consider them as area units discrete from the rural sum.

	Population <sup>1</sup> over 18 as at 2017 population estimates	Ratio limit (venues to people)	Number of venues (rounded to nearest figure) permitted
Matamata	6,124	1: 1225	5
Morrinsville	5,866	1: 1467	4
Te Aroha	3,382	1: 846	4
Rural	10,940	1: 5,470	2
<b>TOTAL</b>	<b>26,312</b>		<b>15</b>

##### 7.4.1 Stand-down period

Where a venue licence has been held for a period of six months or less, the Act does not require an applicant for a venue licence to obtain a new venue consent.

To avoid inadvertently exceeding the venue ratio as a result of this requirement, this Policy regards venues as operative for the purpose of calculating venue ratios until they have been closed for a period of six months.

#### 7.5 Maximum numbers of machines

Council will not approve a class 4 gambling venue consent for more than nine machines in one venue.

##### 7.5.1 Club limits in case of merger

Where two or more clubs or societies legally and physically combine their premises onto a site already listed on a class 4 gaming licence, and have been individually operating gaming machines for a period of more than one year Council will agree to venue consent for the sum of the number of gaming machines specified in all of the merging clubs' class 4 venue licences at the time of the application.

However, the combined number of machines should not exceed 18 in the case of venues that did not hold a licence on 17 October 2001 or 30 machines for venues that held a licence on 17 October 2001.

Council requires confirmation that cancellation of previous class 4 venue licences held by the corporate societies has been undertaken before it will approve consent for the proposed merged venue<sup>2</sup>

Council consideration on the merger may take into account any submissions made by the merging venues or the successor venue.

For clarification, under Section 95(6) of the Act the Department of Internal Affairs must cancel the previous licences and no corporate society is permitted to submit an application in respect of those licences within six months of the cancellation. Therefore, Council consent is required if a corporate society wishes to apply for a licence in respect of those licences.

### **7.5.2 Machine limits review**

The maximum number of machines that Council will consider for approval, as well as the number of machines acceptable, and duration of any probation period, will be reconsidered at the time of the next policy review in 2022. Increasing these limits will be contingent on the levels of gambling related harm measurable or reported in the district remaining at, or below, current levels.

## **7.6 What this means**

### **7.6.1 New applicants**

Council will only approve applications for a new class 4 gambling venue consent or an application from an existing venue to increase the number of machines currently allowed under their class 4 gambling venue consent, when the approval will not result in exceeding the cap outlined in this Policy, and the applicant can reliably demonstrate that they are likely to have minimal negative impact on the surrounding community.

### **7.6.2 Merging clubs or societies**

In the case of a merger where the clubs are moving to one of the existing venues a new venue consent is not required unless the clubs wish to apply to operate more machines than are specified in the existing licence.

Should clubs merge or relocate into a new venue where they do not currently hold a venue consent, then they will be required to apply for a new venue consent as detailed by this Policy. However if consent is granted, the restriction of nine machines (as stated in sections 7.5 and 7.6.1 of this Policy) will not apply if the merging clubs have been individually operating gaming machines for a period more than one year. The new venue will be allowed to operate the number of gaming machines specified in all of the merging clubs class 4 licences at the time of the application. However the combined number of machines shall not exceed the limits defined in section 7.5.1 of this Policy.

### **7.6.3 Minimal negative impact**

Minimal negative impact is seen as a balance between the intrinsic problems that are associated with gambling and the benefits arising from the generation of funding for the community. It would include evidence of harm minimisation strategies and responsible gambling provisions in place by the applicant as well as the evidence of community benefit previously outlined.

## **8. Applications**

Applications will be made to Council. Applications should include all relevant documentation and an application fee.

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<sup>2</sup> Gambling Act 2003, s 95 (6)(a)

New applications can be made conjointly with alcohol licence applications but will be considered separately.

Council will respond with their decision in 30 working days of receipt of an application with all necessary letters of agreement from affected parties as outlined in section 5.2 of this Policy.

Where an objection is raised by an affected party or the applicant has been exempt under section 5.2.1, the applicant will be required to make a public notification of their application and a public hearing of submissions will be held.

## **8.1 Opposition**

In the interest of maintaining democratic participation in Council decision making, any objection to a venue consent being granted will be heard by Council or a hearing commission duly delegated by Council to undertake this function.

### **8.1.1 Public notification**

If an objection is raised to the proposed venue consent, or an applicant has been exempted under section 5, the applicant will be required to make a public notification of the application inviting submissions. This opportunity for submissions will be open for 15 working days after which submitters, objectors and the applicant will be notified of the location and date of a hearing.

Public notification involves an advertisement in the relevant community newspaper stating the venue site and address, the name of the operator and the society making application, the number of machines currently held and number applied to hold, and the date submissions close.

### **8.1.2 Conditions to oppose**

Hearings will be granted when a member of the community has grounds to believe that the conditions of the Policy are being breached.

Places of assembly, community facilities, schools and childcare facilities as outlined in section 5 may oppose an application on the grounds that it is offensive or detrimental to those who attend or utilise their venue.

Objections based on the applicants character, business ethics and other aspects relevant to the ongoing operation of a gambling venue are not issues to be considered by Council and will be referred to a DIA licensing officer.

## **8.2 Charges**

The application and processing fees associated with class 4 gambling venues are listed in Council's fees and charges.

## **9. Review and monitoring**

This Policy will be reviewed within three years of its adoption by Council. Any review will consider the growth and spread of gambling as a recreational activity in the district and the incidence of problems or benefits arising from its presence.

The review will specifically examine the quota formula and the district caps levels imposed on the number of gaming machines in the district. Criteria to increase or decrease any district limits on venues or the numbers of machines per venue will be based upon an evaluation of the evidence of harms or benefits arising from gambling.

## **10. Definitions**

Some definitions were seen as useful to clarify the intent, purpose and meaning of this Policy.

### **10.1 Venue**

A venue for the purpose of this document refers to the definition in the Act of 'Place' which includes—

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

A subset of this definition should not be used to allow increased quotas of gaming machines by expanding the venues available to an operator (i.e. venue should not be considered as a room for the purpose of quotas when more than one room in the same building is intended for gambling purposes – for the purposes of this Policy the most inclusive consideration of venue is intended).

This definition is not intended to prohibit operators maintaining separate venues, providing all other aspects of this Policy are adhered to and the venues can be considered separate and individual places of operation.

#### **10.1.1 Clubs**

For the purpose of this Policy 'clubs' refers to a voluntary association of persons combined for a purpose other than personal gain.

#### **10.1.2 Public venue**

For the purpose of this Policy 'public venue' refers to a venue that is not a club and is either licensed or applying for a licence to operate class 4 gaming machines.

## **10.2 Affected parties**

### **10.2.1 Place of assembly**

'Place of assembly' means land or buildings for the purposes of the congregation of people for deliberation, entertainment, cultural, recreation or similar purposes and includes, but is not necessarily limited to, churches, halls, community facilities, funeral chapels including crematorium on the same site, clubrooms, taverns, restaurants, art galleries, theatres, sports fields, and tourist facilities.

### **10.2.2 Community facility**

'Community facility' refers to any facility owned or used by the community for recreation, sport, cultural or community purposes, on a non commercial or non profit making basis. It includes halls, churches, may include theatres, libraries, museums and galleries but does not include public utilities and services, racecourses, amusement and wildlife parks, showgrounds and accommodation facilities.

### **10.2.3 School**

'School' refers to land and/or buildings used to provide regular instruction or training and includes pre-schools, schools, tertiary education institutions, works skills training centres, outdoor education centres and sports training establishments.

#### **10.2.4 Childcare services**

'Childcare services' refers to land and/or buildings used to provide caring services for children under six. This includes but is not limited to kindergartens, crèche, preschool, day care and kōhanga reo.

## 11. Appendices

### 11.1 Appendix 1: Application process flowchart

