

# Submission to the Commerce Committee

In the matter of the *Gambling (Gambling  
Harm Reduction) Amendment Bill*

Auckland Council, July 2012



## Mihimihi

E tu ake nei au hei runga i a Puketutu, roimata rere iho ki nga taniwha rau,  
Torona taku tirohanga ki raro, ki Mahurangi, ki Whangateau hoki,  
Tae atu ki nga kaka o reira  
Tau atu ra ki te parenga i Topuni, pateretere ana ki Kaipara Moana,  
Huria atutia ki nga ngaru nunui o te Moana Tapokopoko o Tawhaki,  
Kei reira e hora noa atu te Hukahuka o Tangaroa ki Oaia,  
Ka whakawhitingia te Heruroa o nga matua tupuna,  
ki te Moana Nui o Toi te Huatahi  
Tau atu ki Aotea ki nga pari Mahara Hawaiki,  
A, ka hoki ano ki raro,  
E titiro iho ana ki te Waitemata, ki te Manukanuka Hoturoa,  
Kati!  
Takapaungia Tamaki Makaurau  
Tamaki Herehere Waka  
Tamaki kainga nga wheua katoa.  
I tukuna ihotia e ratou o te wahi ngaro te whariki nei hei taonga mo tatou  
me nga whakatupuranga e heke mai nei.  
No reira,  
Ka tukuna roimata ki ratou,  
Ka horahia aroha ki ngā kanohi ora a rātou ma,  
Kia Ora mai tātou

E ngā mema o te komiti nei, koinei te mihi ki a koutou.

Kua takapau te taumata kaunihera nei i te tuinga e whai ake nei kia putaina aitia te nako o nga tinitini whakaaro no roto i te rohe o Tamaki Makaurau mo te Pire Whakakiti Tukino Petipeti.

E whakaae ana matou ki etahi o nga wahanga o te pire,  
E mautohe ke ana matou ki etahi atu o nga wahanga  
a kua whakatungia etahi atu korero kia pai ai te tikanga o tenei Pire.

No reira

Ngautia nga korero katoa, kia nonoho ai te motu i te manaakitanga o te runga rawa

Kia Ora mai tatou katoa.

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## EXECUTIVE SUMMARY

Two proposals in the Bill impact directly on territorial authorities (TAs). This submission focuses on:

- *Stronger regulatory powers:* TAs would have a new regulatory power, allowing them to reduce the number of Class 4 gambling venues.
- *New Funding Role:* TAs would take on a new role as distributor of the net proceeds of class 4 gambling. Of total net proceeds, 80% would be returned to the community of origin.

### Regulatory Powers

The Bill proposes that TAs could reduce the availability of class 4 gambling by reducing the number of venues in specified areas.

Auckland Council strongly supports this proposal.

The Council also goes further, and requests a more extensive “toolkit” of powers, which could be applied differently in different parts of a TA district, and to different types of venue. In particular, the Council asks for the power to:

- Reduce the availability of class 4 gambling by reducing the number of machines, or by restricting the hours during which machines may be operated.
- Declare a venue, or type of venue, as unsuitable to be a class 4 venue.
- Place conditions on the layout and design of venues.

The second and third of these powers currently exist and are held by the Secretary of Internal Affairs. The Council proposes that they be transferred to TAs.

### New funding role

The Bill proposes to make the distribution of proceeds from class 4 gambling fairer and more transparent, by requiring TAs to set up and administer distribution committees.

Auckland Council supports the intention of the Bill, but opposes the proposed mechanism.

The Council proposes an alternative mechanism that would achieve the same objectives. The main features of the proposal are that it would:

- Leave the pokie trusts in charge of administering the grants distribution process and; they would continue paying for it out of the gross proceeds from class 4 venues.
- Require pokie trusts to compete with each other to earn that responsibility. Before obtaining a TA consent, they would have to provide evidence of how they would reduce problem gambling, minimise operating costs and maximise returns to the community.
- Require pokie trusts to distribute funding within a TA’s district in keeping with the criteria and rules set out in the TA’s Gambling Venue Policy. These criteria would control where the funds go, for what purposes, and the membership of distribution committees.
- Remove a fundamental flaw in the existing Act, which is the unhealthy competition it creates among pokie trusts to obtain agreements with venue owners.

The proposal does these things by making minimal changes to the Act and the existing regulatory system. The Secretary of Internal Affairs continues to take the lead role in licensing, monitoring and enforcing compliance in the class 4 gambling sector.

## INTRODUCTION

1. Auckland Council (the Council) thanks the Commerce Committee for the opportunity to make this submission in relation to the *Gambling (Gambling Harm Reduction) Amendment Bill* (the Bill), and particularly for the extension of time that was granted for preparing this submission.
2. This submission was developed by a working party comprised of councillors, members of the Independent Maori Statutory Board, and members from several local boards.
3. Most local boards have considered the Bill at a workshop, and have subsequently passed formal resolutions regarding the Bill. These are included in the final section of this submission.
4. A number of local boards have opted to make a further submission directly to the Commerce Committee. The Governing Body of Auckland Council respects the right of all local boards to represent the views of their communities as they see fit, and we thank the Committee for allowing the additional time needed for that.
5. This submission had not been formally ratified, by the Governing Body of Auckland Council, by its due date. That will be done at the earliest opportunity.
6. The Council wishes to present its submission to the Committee in person, and may provide further information at that time.
7. The Council notes that the Royal Commission on Auckland discussed gambling policy in *Volume 3; Vision for Auckland*. The Auckland Plan states that “An issue for Auckland is the concentration of gambling venues and ‘pokie machines’ in areas of high deprivation throughout Auckland”. Also, eleven of 21 local boards have specifically referred to gambling policy in their local board plans.
8. The Council acknowledges the Local Government New Zealand submission on the Bill and shares many of the concerns raised in the LGNZ submission. In this submission, Council seeks to address a number of these issues and concerns, by offering constructive proposals to overcome them.
9. The Council supports the intention of the Bill to reduce gambling related harm. Council believes that reform of the Class 4 gaming sector is urgently required, and that this Bill presents an opportunity to “get on with it” and make the changes that are needed.

## **STRONGER REGULATORY POWERS**

10. The Council supports the proposal in the Bill to allow territorial authorities to reduce the number of gaming venues in its district or in parts of its district.
11. However, the Council also regard this new power as something of a “blunt instrument” in terms of reducing gambling harm. It would prefer that territorial authorities had a more extensive “toolkit” of regulatory powers, including the ability to:
  - (a) Control the hours of gaming machine operation at a venue;
  - (b) Reduce the number of gaming machine at a venue, or class of venues;
  - (c) Prescribing requirements for the design, layout, and furnishing of a class 4 venue;
  - (d) Declaring a venue, or class of venues, as suitable or unsuitable to be a class 4 venue.

### **Hours of operation**

12. The ability to control the hours of during which class 4 machines may be operated at a venue would be consistent with proposals to allow TAs to control the opening hours of liquor outlets, as is currently proposed in the Alcohol Reform Bill.
13. A Class 4 Venue licence must currently include “conditions to prevent class 4 gambling being conducted at the venue unless the primary activity of the venue is offered and available at that time.” [section 79(1)(i) of the Act]. Control over the hours of operation should be explicitly included in each venue’s TA consent. This would be less of a blunt instrument than closing a venue altogether.
14. That section also needs to be amended to strike out the words “offered and available”, and replace them with the words “is the primary activity actually being undertaken”. This would give greater effect to clauses 101(4)(f) and 67(1)(f) of the Act, both of which state that a class 4 venue should not be used mainly for operating gaming machines - but do not have that effect, in practical terms, for most of the hours that venues are open.

### **Number of machines per venue**

15. The Gambling Act currently says, in section 100 (2), that “*A society must not operate more than 9 gaming machines at a class 4 venue*”. But it also makes an exception for all the venues in operation at the time the Act came into force: they can have up to eighteen machines.
16. In May 2012 there were 303 Class 4 venues operating in Auckland. Of these, 169 venues had 18 machines in operation, or 55% of the venues. These venues accounted for 3,042 of the 4,183 operative machines in Auckland, or 73% of all machines.
17. Currently, TAs are prevented by section 100(2)(b) of the Act, from including a condition in a Class 4 venue consent that would reduce the number of machines at a venue.
18. Amending the Act to allow a TA to grant a consent that reduces the number of machines at a venue would allow some class 4 venues to continue operating instead of closing them. Again, this would be a less blunt instrument.

### **Transfer of regulatory powers**

19. The powers noted under paragraph 11 (c) and (d) above, are regulatory powers potentially available to the Secretary of Internal Affairs, created by section 313(1)(c) and (d) of the Act. The Council believes that they could be used more effectively by territorial authorities, at a local level, in the cause of harm minimisation.

20. In both cases, these are matters that a TA should be able to consider when adopting or reviewing its gambling venue policy, and they should be applicable when considering individual applications for a TA consent to operate a class 4 venue.

## Regulatory Principles

21. All of the powers suggested above apply differently in parts of a TA's district, and to different types or classes of venue within the district. This will allow Auckland Council to reflect the different needs and interests of its many communities. It will also ensure that class 4 operators who are currently doing what the Act requires, and what this Bill intends, will not be unfairly treated
22. On a technical point; it is desirable that any conditions included in a TA consent should be automatically included as conditions of a license issued by the Secretary of Internal Affairs. This will ensure that a TA's regulatory powers are:
- **Robust:** clearly specified in law, and not easily susceptible to legal challenge.
  - **Non-arbitrary:** the Act already contains rights of appeal against licensing decisions of the Secretary of Internal Affairs. There is no need to create separate rights of appeal against TA consent decisions.
  - **Enforceable:** The Act provides enforcement powers to gambling inspectors appointed by the Secretary. There should be no requirement for TAs to employ and train enforcement officers.

## Policy Implementation

23. The Bill, as it stands, offers only one policy tool: a TA can define "specified parts" of its district, and it can make a policy that prohibits or reduces the number of venues in those parts of the district. The Bill
- (a) includes no criteria for specifying "parts" of a district, and;
  - (b) does not allow a policy to be applied differently to different types of venue, and;
  - (c) the single policy tool is a very blunt instrument.
24. In the case of prohibiting venues, the policy decision is simple. But the Bill includes no process or criteria for deciding which, among a number of venues in an area, would be refused consent if a reduction policy were implemented.
25. The current approach taken in the Act is that there is a division of labour between TAs and the Secretary of Internal Affairs:
- (a) Territorial authorities are responsible for making policy decisions, and applying these even-handedly in all cases to which the policy applies, when deciding to grant or withhold consents.
  - (b) The Secretary of Internal Affairs is responsible for making case-by-case assessments, as to whether a venue should hold a licence.
26. The Council supports the existing division of labour in the case of venue consents and licences. However TAs need to be empowered to apply a "reduction" policy, as proposed by the Bill, in a flexible manner, reflecting the needs of different types of venue, and the will of different communities.
27. The Council therefore propose that, when making its gambling venue policy [s. 100]:
- (a) A TA should have the ability to define different *types* of venue. A type could be defined by whether the venue:
    - is owned by a licensing trust (under the Sale of Liquor Act); or
    - is "a non-commercial class venue that a corporate society owns or leases; and is mainly for the use of club members" (refer section 65 (e) of the Act. This applies to RSAs, cossie clubs, working mens' clubs, etc.); or

- provides any other class or type of gambling, including any type of TAB outlet or sports betting facility (under the Racing Act); or
  - is a venue with none of the above characteristics.
- (b) A TA should be able to apply its policy or policies differently to venues located in one or more geographically defined areas (policy areas). When defining a policy area, the TA might take into account:
- The electoral boundaries of its, wards, local board areas or community board areas; and
  - The zoning provisions in its district plan; and
  - The demographic and socio-economic characteristics of the population in its district, or parts of its district, to the level of a census area unit; and
  - Any of the matters it must have regard to as required by s. 101 of the Act.
- (c) A TA should then be able to make policy decisions to grant consents (with or without conditions), or to refuse consents, for all venues of a particular type, or all the venues in a specified policy area.
28. This approach provides a “toolkit” of regulatory powers that TAs could use to mitigate harm from gambling. And it provides flexibility in the application of the toolkit by allowing TAs to apply policies differently to venues of different types, and in different policy areas.
29. For these reasons, this is the approach preferred by Auckland Council and recommended to the Committee.

## NEW FUNDING ROLE

30. There are examples of pokie trusts that already operate as the Act intends, and in keeping with the proposals in the *Gambling (Harm Reduction) Bill*. Those aligned to district licensing trusts; for instance, tend to comply with both the spirit and letter of the current Act, and the Bill, in that they distribute a higher proportion of the gaming machine proceeds to community purposes than other trusts do, and they tend to distribute the great majority of their revenues from class 4 gaming within their licensing trust area.
31. The same can generally be said of Returned Services Associations, chartered clubs, and other organisations that provide class 4 gambling to their own members, rather than to the general public.
32. Clearly, however, there are trusts that operate at, or beyond, the margin of legally acceptable practice. The efforts of the Department of Internal Affairs to regulate these trusts have resulted in a series of prosecutions, but they have not “cleaned up” the sector.
33. The large sums of money generated by pokie venues creates an incentive for new trusts to be established by individuals and groups whose intent is not aligned to the purposes of the Act.
34. The fact that less scrupulous trusts have operated, and continue to operate, within the current framework indicates that change is needed.

### The proposed new funding role

35. Auckland Council does not support the proposal set out in clause 10 of the Bill, in its current form. To make the funding proposal outlined in clause 10 of the Bill workable and acceptable, the Bill would need to be significantly re-written to address the following matters:
  - (a) *Conflicting Objectives*: The Council is concerned about the conflict that will be created between the regulatory and funding roles. It acknowledges that this conflict could be managed under the provisions in Section 42 of the Local Government Act 2002, although this is less than ideal:
    - “(3) A chief executive appointed under subsection (1) is responsible to his or her local authority for ensuring, so far as is practicable, that the management structure of the local authority—
      - (a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and
      - (b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflicting objectives.”
  - (b) *Number of distribution committees*: the Bill’s proposal would require Auckland to establish at least 20 distribution committees. Territorial authorities should decide on the number of committees, their purposes, and the geographical areas they serve, within their own districts.
  - (c) *Costs of servicing the committees and the funding process*: the Bill should be amended to specify that all costs of servicing the distribution committee, and of receiving and processing the grants, and of following up on accountability for expenditure of the grants, will be met from the gross proceeds of gambling and not from ratepayers’ funds.
  - (d) *Appointments to distribution committees*: The Bill uses the “*Creative Communities*” funding model as a template. The Council sees no reason for a particular model to be prescribed in law. Territorial authorities should decide the criteria for selection of members to a distribution committee, including the possibility of holding elections for distribution committees.

- (e) *Conflicting interests*: the Bill allows elected members of TAs to be appointed to distribution committees, which is a conflict with their regulatory role. It should be amended to ensure that no elected member of a territorial authority, local board, community board, regional council, or licensing trust may be on a distribution committee.
- (f) *Authorised purposes*: The Bill moves the distribution role to TAs, but the authorised purposes appear to stay with pokie trusts. It is unclear how this would work. Territorial authorities should decide the specific purposes that will be funded from class 4 proceeds from their districts, including the ability to align authorised purposes to community outcomes identified in long-term plans and local board plans.
- (g) *The future role of Corporate Societies*: it is unclear what role corporate societies would play in future if the funding distribution role was transferred to territorial authorities.
- (h) *Community funding margin*: the Bill does not address the minimum distribution of 37.12%, which is currently set by regulations made by the government. There is no process in place to ensure it is regularly reviewed, and such a review is long overdue.

## Relationship of Venues to Corporate Societies

- 36. The Bill does not address a fundamental flaw in the Act, which is the ability of venue owners to choose which pokie trust with which they sign a venue agreement. This flaw raises two issues relevant to the design of an appropriate funding distribution model:
  - (a) Venue owners, when choosing a pokie trust, have a powerful influence on the proportion of funding distributed to the “authorised purposes” of different pokie trusts, especially in the case of single-purpose or single-category trusts (i.e. if the trust’s purpose is to fund a particular sport, or sport generally and not other charitable purposes, respectively).
  - (b) Corporate societies must compete with each other, to encourage venues to sign up with their trust and not another. But the Act requires that pokie trusts must minimise costs, including the payments they make to venue owners. The incentives created by the Act are therefore contrary to the intentions of the Act, and a number of prosecutions have arisen because of this conflict.

## Summary

- 37. The Bill proposes to make the distribution of proceeds from class 4 gambling fairer and more transparent, by requiring TAs to set up and administer distribution committees.
- 38. The Council fully supports the intention of the Bill, but not the proposed mechanism. It submits that the status quo is unacceptable and must be changed.
- 39. The Bill would require significant amendment to address the issues outlined in paragraph 35, above, and it does not address the fundamental structural flaw in the Act noted in paragraph 36.
- 40. In the next section an alternative is presented that addresses all of these matters and which can be implemented within the framework of the amendments proposed in the Bill.

## ALTERNATIVE FUNDING PROPOSAL

41. The Act could be amended to require that a class 4 operator must obtain territorial authority consent, before it is allowed to hold class 4 venue licences in that territorial authority's district.
42. If the territorial authority were able to define types of venues and policy areas, in the manner indicated in paragraph 26, then it would be able to grant consents to different operators, for different types of venue and for different policy areas.
43. The process for implementing this proposal would essentially be the same as a competitive tender process, with corporate societies "bidding" for TA consents. This would place them under pressure of competition to meet the TAs' expectations for performance. It would also enable the better-performing societies to remain in place, and ensure that the less capable or credible operators would exit the market.
44. In outline, the proposal is that:
  - (c) In making a gambling venue policy, a territorial authority would set out its expectations (criteria for granting consent to a class 4 operator), separately for different types of venues and for different policy areas.
  - (d) When assessing an application for an operator consent, the TA would have, supplied to it by the Secretary of Internal Affairs; the information required in the operator's application for a class 4 operators' licence, as set out in section 50(2) (a) to (i) of the Act, and the results of any investigation made under s. 51(1).
  - (e) The TA could grant or withhold consent to individual operators, based on the relevant policy statements included in its gambling venue policy, and information it has received (via the Secretary), from, or about, the corporate societies.
  - (f) The TA could also include specific conditions in its consents, relating to its policies on such matters as: minimising cost and maximising returns to the community; the method of distributing funds (i.e. number and composition of distribution committees); as well as the specific authorised purposes for which funds are to be distributed.
  - (g) The Secretary should be required to include any such conditions in the venue's licence [s. 70], and to monitor compliance with those conditions, enforce compliance, and provide monitoring and compliance reports to the TA.
  - (h) Appropriate criteria for inclusion in a TA policy are already set out in section 50(2) (a) to (i) of the Gambling Act (these being the things that a corporate society must include in its application for a Class 4 operator's licence):

*"An application must be on the relevant standard form and be accompanied by—*

    - (a) a copy of the applicant's governing document; and*
    - (b) details of the authorised purposes to or for which net proceeds from the class 4 gambling will be applied or distributed; and*
    - (c) a statement by the applicant of how it proposes to minimise the risks of problem gambling (including the society's policy for identifying problem gamblers); and*
    - (d) information about the financial viability of the proposed gambling operation and the means proposed to maximise the net proceeds from the class 4 gambling to be applied to or distributed for authorised purposes; and*
    - (e) in the case of an applicant that operates mainly to distribute net proceeds from the class 4 gambling to the community, details of the methods, systems, and policies for consideration of applications and distribution of net proceeds; and*
    - (f) a profile of each key person, including details of their experience in class 4 gambling, history in gambling, character, and qualifications; and*
    - (g) an application, and accompanying information, for a class 4 venue licence for each venue at which the applicant proposes to operate class 4 gambling; and*

- (h) any information requested by the Secretary to assist the Secretary to determine whether the applicant is suitable; and*
- (i) any information requested by the Secretary to show that the applicant will meet the requirements of this Act and the conditions of the proposed licence.”*

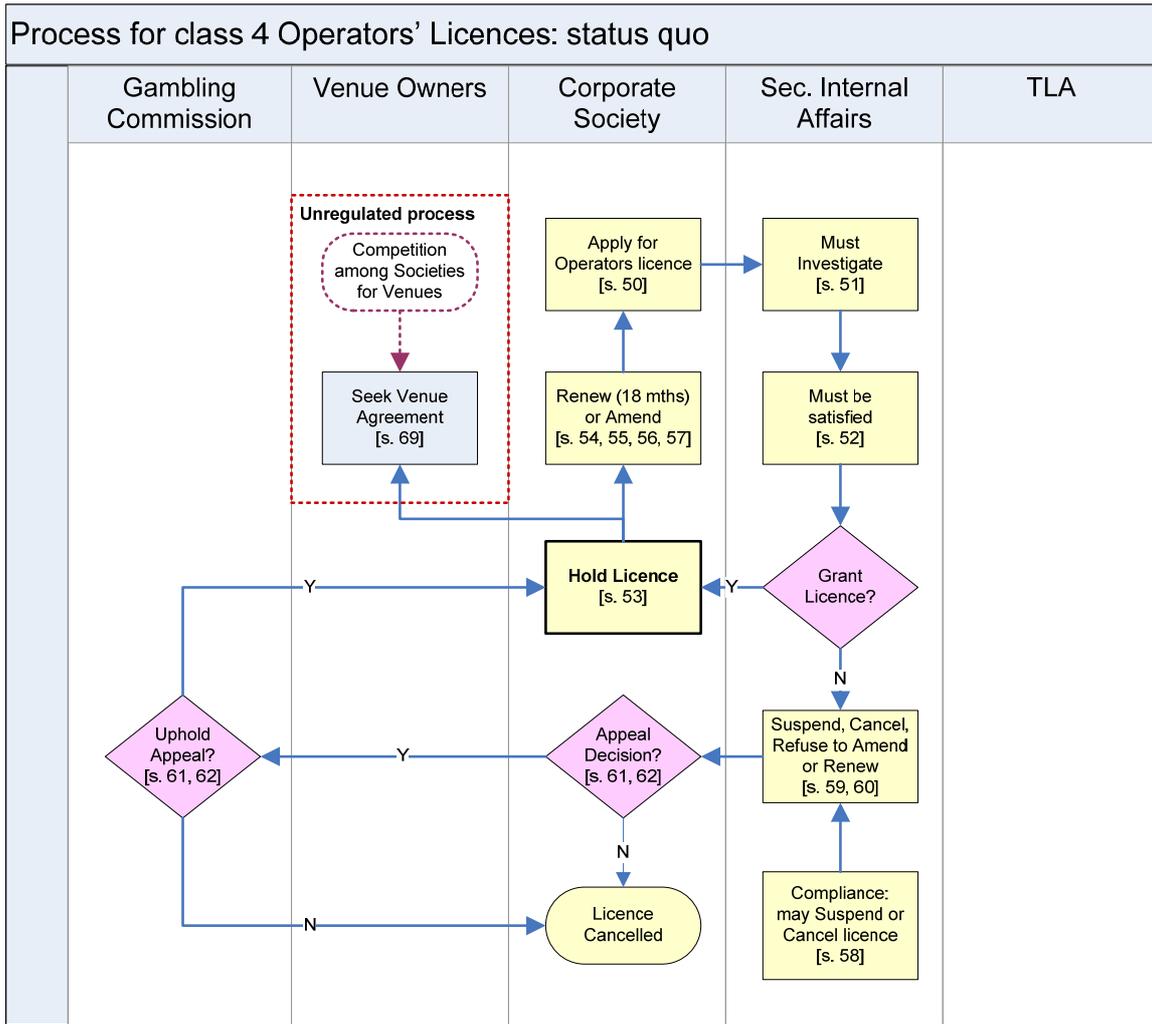
- (i) The existing regulatory process for class 4 operators set out in the Act would remain intact, with a number of minor amendments. The principal amendments needed would be in sections 98 to 103 of the Act, which relate to TA consents.
- (j) This approach deliberately takes away from venues the power to decide which corporate society will control revenues from machines at that venue. It thereby removes the structural flaw in the Act that we have identified in paragraph 36 of this submission.
- (k) Venue owners will not be entirely disempowered by this approach: they can still choose whether or not they want to host a class 4 venue.

45. The difference between the status quo and our proposal is further described, in Figure 1 and Figure 2, below.

## Summary

- 46. The Council’s concerns about the funding proposal set out in the Bill include many of the concerns raised by Local Government New Zealand in its submission, which it has also outlined in paragraph 35.
- 47. The Council has offered a constructive proposal to address those concerns, which fits within the framework of amendments proposed by the Bill.
- 48. The key proposition is that the Act should delegate decision-making on the matters of concern to TAs, by extending the delegated powers they currently have.
- 49. All local authorities currently exercise delegated powers; when making bylaws, or adopting and amending their district plans, for instance. The Act already provides that a TA must use the special consultative procedure when adopting its gambling venue policy; the same procedure that is used to adopt an annual plan or long term plan. This form of policy-making proposal is “core business” for TAs, so our proposal represents nothing new or exceptional in that context.
- 50. The other key aspect of this proposal is that TAs will implement a type of competitive tendering process (on a non-price basis), when allocating class 4 operators’ consents. Tendering and contracting-out processes are also “core business” for TAs.
- 51. The proposal is not included in our clause-by-clause response to the Bill, because it emerged from the working party’s deliberations toward the end of the process.
- 52. Detailed amendments were therefore not completed and agreed by council before the deadline for this submission. However, the Council may provide those recommended amendments when it presents this submission to the committee.

**Figure 1: Existing process for licensing Class 4 gambling operators**



This flowchart shows how the relevant sections of the Act [in square brackets] involve different participants, who are represented in the vertical “swim lanes” of the diagram.

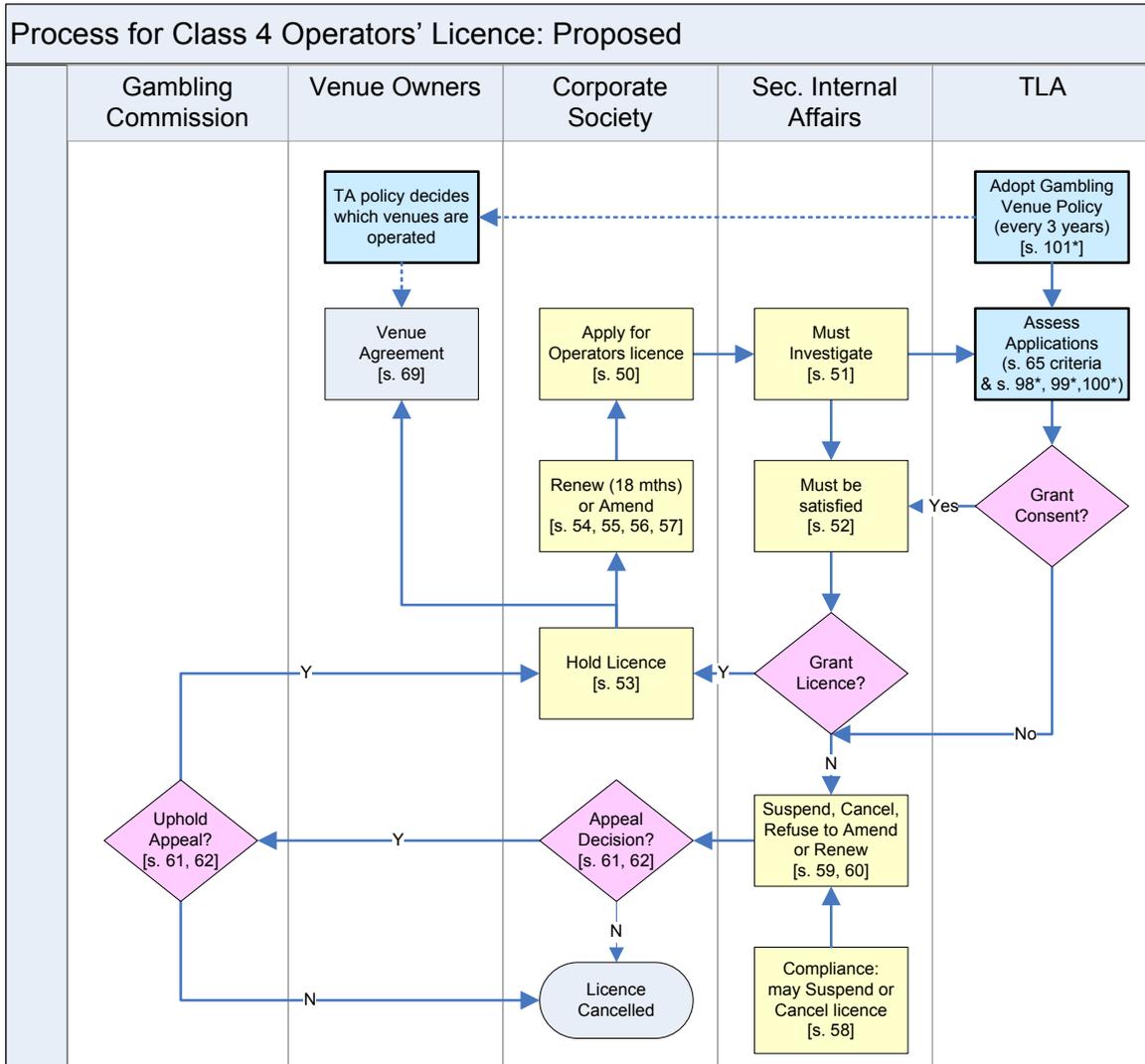
Under the existing Act, TAs are not involved in the regulation of class 4 operators (pokie trusts). A pokie trust may operate in a TAs district, distributing funds from the venues with which they have an agreement to authorised purposes anywhere in New Zealand.

The pokie trusts compete with each other to obtain venue agreements, but they are not allowed to offer financial incentives to venue owners.

Venue owners do not own or operate class 4 machines: the pokie trusts pay for the machines and paid site rental, staff costs, power and other operating costs.

Yet the competition among trusts puts them in the “drivers seat”. Ultimately, it is venue owners who decide which “authorised purposes” will be funded.

**Figure 2: Proposed process for Class 4 Operators' licensing**



Auckland Council's proposal puts TAs in the "driver's seat".

The pokie trusts must compete with each other to obtain TA consent to operate machines for specified types of venue, in specified areas. Types and areas are specified in the TA's gambling venue policy, adopted under section 101.

Venue owners still do not own or operate class 4 machines: the pokie trusts make payments to venue owners, but the trusts will be incentivised to minimise those costs, as well as their own operating costs, so they will maximise returns to the community.

A pokie trust, operating in a TA's district, must distribute funds in line with requirements set out in the TA's gambling venue policy, and included in the TA's class 4 operators' consents.

The existing regulatory role of the Secretary of Internal Affairs and the licensing requirements in the current Act are kept intact.

Any conditions included in a TA's class 4 operators *consent* automatically become conditions of the *licence* granted by Internal Affairs. Internal Affairs continues to ensure class 4 operators comply with the conditions of their licence.

## OTHER MATTERS

53. While the Council does not have a direct interest in these matters, it does wish to comment on them.

### Racing as an Authorised Purpose

54. This matter was discussed by some local boards, with some members acknowledging the importance of the racing and bloodstock industries to the New Zealand economy.
55. Others noted that the racing industry is already well supported by the Racing Act 2003, which provides it with a statutory authority (the New Zealand Racing Board), that holds a monopoly on racing and sports betting.
56. The comment was also made that; while there may be a case for further support or subsidy to the racing industry beyond what is provided by the Racing Act, there is no plausible reason why such a subsidy ought to be provided from the proceeds of class 4 gaming, instead of from the government's consolidated revenue.
57. The Council fully supports the proposal to remove racing and racing stake-money as authorised purposes for the proceeds of class 4 gaming.

### Pre-commit cards and player tracking devices

58. The Bill permits the Secretary of Internal Affairs to include these harm-reduction tools as conditions of licence for some class 4 gaming operators.
59. There is mixed evidence of the successful application of such technology in other jurisdictions.<sup>1</sup>
60. The Council is unconvinced that this "technological fix" approach to problem gambling will provide an adequate return on the investment required. The Council also submits that; to be fully effective, these instruments must be applied to all class 4 gaming operators and to all pokie machines, including those operated by casinos.

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<sup>1</sup> *Pre-commitment in gambling: a review of the empirical evidence*, **International Gambling Studies**, 15 Feb 2012.

## CLAUSE-BY-CLAUSE RESPONSE

61. This part of our submission responds to the substantive clauses of the Bill. It is the hope and expectation of the council that this Bill will succeed, fulfil the purposes described in clause 4, and address some of the matters raised in the foregoing parts of this submission.

### Clause 4: Purpose

62. Auckland Council **fully supports** the intentions of the *Gambling (Gambling harm Reduction) Amendment Bill*, as expressed in clause 4.
63. The Council submits that territorial authorities can make a significant contribution to realising these purposes of the Gambling Act 2003, and Auckland Council is willing and able to shoulder that responsibility.

### Clause 5: Interpretation

64. Auckland Council **fully supports** removal of “*promoting, controlling, and conducting race meetings under the Racing Act 2003, including the payment of stakes*” from the definition of Authorised Purposes to which the proceeds of Class 4 gambling may be applied.
65. The Council submits that amending this part of the Act provides an opportunity to create greater consistency in the general approach, in different parts of the law, to the delivery of social benefits from the proceeds of harmful activities.
66. For instance, Parliament might consider substituting the words, from section 186 of the Sale of Liquor Act, specifying the purposes for which the net profits of a licensing trust may be distributed:
- (b) *for class 4 gambling:*
    - (i) *the promotion, advancement, or encouragement of education, science, literature, art, physical welfare, and other cultural and recreational purposes;*
    - (ii) *the erection, laying out, maintenance, or repair of any buildings or places intended to further any of the purposes described in paragraph (a);*
    - (iii) *any other philanthropic purposes.*
67. Alternatively, Parliament might consider substituting the words, from section 277 of the Gambling Act, specifying the purposes for which the net profits of New Zealand Lotteries may be distributed:
- (b) *for class 4 gambling, the building of strong sustainable communities by encouraging or enabling—*
    - (i) *community self-reliance, capacity building, and stability; or*
    - (ii) *opportunities for social, recreational, civil, or cultural participation and reducing or overcoming barriers to such participation; or*
    - (iii) *community and environmental health; or*
    - (iv) *development and preservation of New Zealand’s arts, culture, heritage, and national identity; or*
    - (v) *sports and recreation.*

## Clause 6: Content and conditions of class 4 operator's licence

68. Auckland Council **supports** 6(1) of the Bill, with reservations: it is likely to have unintended consequences, and is incomplete.
69. Requiring distribution at the smallest level of electoral subdivision may have perverse consequences, if class 4 venues are removed from one community board, or local board area, but not another. It might disadvantage communities most in need of community funding, and prevent the funding of projects or activities that span two or more local board areas.
70. This clause is also incomplete, when compared to the wording in clause 9(1) of the Bill, which more accurately refers to “*net proceeds*” and includes the words “...as that in which the class 4 venue from which the proceeds originated is located”.
71. We therefore propose the following amendments:
- “(ca) a condition that at least 80% of **the net proceeds** from gambling under the licence must be distributed for purposes that are located in the same territorial authority district or, ~~where such electoral subdivisions exist, in the smallest of the local council ward, local board subdivision, or community board area; and~~. **as that in which the class 4 venue from which the proceeds originated is located.**”*
72. The Council **does not oppose** clause 6(2), regarding player tracking devices and pre-commit cards. The Council has concerns about this proposal, which are outlined in paragraphs 58 and 59, above. It urges the Committee to seek further advice and evidence on this matter.

## Clause 7: When territorial authority consent is required

73. Auckland Council **fully supports** the proposal that territorial authorities should have the power to prohibit or reduce the number of Class 4 venues in their areas, by the means proposed in the Bill if not other methods will be considered.
74. The Council further submits, however, that this single power is a blunt instrument and should be supplemented by a range of other regulatory tools, along the lines set out in the section titled *Stronger regulatory powers*, above.
75. A substantial amendment to section 98 of the Act (*When territorial authority consent is required*) would be the principal method by which the proposed alternative funding model could be implemented, as set out in the section titled *New funding role*, above.
76. A consequential amendment is required, as we have noted in paragraph 17. Section 100(2) must be repealed to make this change effective.

## Clause 8: Territorial authority must adopt class 4 venue policy (1)

77. Auckland Council **supports** clause 8(1) as it is written, but notes that it could be improved, and that consequential amendments should be considered.
78. The requirement to take “public sentiment” into account when adopting a gambling venue policy is unnecessary. Section 102 (1) of the Act requires that a class 4 venue policy must be adopted in accordance with the special consultative procedure. Section 78 of the Local Government Act (Community views in Relation to Decisions) also applies. TA’s do not need to be told, in this context, to listen to their communities. The following amendment is recommended:

*“(2) In adopting a policy, the territorial authority must, in respect of the territorial authority district, have regard to—*

*(a) the social impact of gambling; and*

*(b) evidence of harm from gambling.”; ~~and~~*

~~“(c) public sentiment about the extent and location of gambling venues.”~~

### Consequential amendments

79. Auckland Council notes the concern raised by Local Government New Zealand’s submission about the increased cost to ratepayers of policy-making that the addition of “evidence of harm” could incur for territorial authorities.
80. If TAs are to take a greater role in reducing problem gambling, then that must be reflected in subpart 4 of the Act, which relates to the problem gambling levy and the development and implementation of a problem gambling strategy, paid for out of that levy.
81. The following consequential amendments are proposed, to mitigate the additional cost of policy-making:
- Strike out sub-sections 317(2)(c) and (d) of the Act, and replace them with the following words:
    - “(c) *independent research into gambling harm; and*
    - “(d) *analysis of the funding distributed to authorised purposes from the profits or proceeds of gambling, and evaluation of the social and economic effects of that funding.*”
  - Section 317 is amended by adding the following paragraph:
    - “(3) *Research into the matters included in subsection (2)(c) and (d) must be designed and delivered in a manner that will assist territorial authorities to meet their obligations under section 101(2) of this Act.*”
82. The following consequential amendments are proposed, to ensure that TAs will sit at the table, along with representatives of the gambling industries, when the problem gambling strategy is developed and decided:
- Subsection 318(1) is amended by adding the following paragraph:
    - “(viii) *at least 6 representatives of territorial authorities, reflecting the geographical distribution of class 4 gaming machines in New Zealand, nominated by the national council of Local Government New Zealand*”
  - Subsection 318(4) is amended by adding the following paragraph:
    - “(f) *4 or more representatives of territorial authorities, nominated by the national council of Local Government New Zealand.*”

### Clause 8: Territorial authority must adopt class 4 venue policy (2)

83. Auckland Council **fully supports** clause 8(2) as it is written; even if the blunt instrument of closing down venues is the only new power that parliament will consider.
84. However, in order to provide territorial authorities with a more extensive “toolkit” of regulatory powers, and greater flexibility in their application, as we have proposed in this submission, the following alternative amendment is suggested.

Clause 8(2) of the Bill is replaced by the following:

“Section 101(3) and (4) are repealed, and replaced by the following paragraphs:

- (3) *When making its policy, a territorial authority may define different types of venue to which its policies can be applied. A venue type may be defined by taking into account whether the venue:*
  - (a) *is owned by a licensing trust; or*

- (b) *is a Returned Services Association, cosmopolitan club, sports club or other club that provides gaming machines solely for its members and their guests; or*
  - (c) *provides any other class or type of gambling, including any TAB outlet or sports betting facility; or*
  - (d) *is another type of venue, having characteristics that are relevant to the regulation of class 4 gaming to fulfil the purposes of this Act.*
- (4) *When making its policy, a territorial authority may also define different geographical policy areas in which its policies will be applied. When defining a policy area, the TA may take into account:*
- (a) *the electoral boundaries of its, wards, local board areas or community board areas; and*
  - (b) *the provisions in its district plan; and*
  - (d) *the demographic and socio-economic characteristics of the population in its district, to the level of a census area unit; and*
  - (e) *any of the matters it must have regard to in section 101 of this Act.*
- (5) *The policy—*
- (a) *must specify whether or not class 4 venues, or whether or not different types of class 4 venue, may be operated in its district; in each policy area within its district; and*
  - (b) *must specify the number of machines that may be operated at class 4 venues; or at different types of class 4 venue, for each policy area within its district; and*
  - (c) *must specify the hours of the day that gaming machines may be operated, on each day of the week; at all class 4 venues in its district, or at any type of class 4 venue, for each policy area within its district; and*
  - (d) *may specify requirements for the design and layout of all class 4 venues in its district, or for each type of class 4 venue, for all class 4 venues in a policy area, within its district; and*
  - (e) *must make any requirements specified in subsection (5)(e) a condition of the consent, granted under section 100 of this Act, for every class 4 venue to which they apply.*
- (6) *In determining its policies in (5), the territorial authority may have regard to any relevant matters, including:*
- (a) *the other types of gambling available in its district, or in each policy area:*
  - (b) *how close any venue, or any type of venue, should be permitted to any other venue, or type of venue, in its district or within each policy area:*
  - (c) *what the primary activity at any venue, or any type of venue, should be;*
  - (d) *the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities.*

## **Clause 9: Corporate society must apply or distribute net proceeds from class 4 gambling to or for authorised purpose**

- 85. Auckland Council **opposes** the proposed amendment, as being excessively punitive.
- 86. Section 106 currently enforces a requirement that class 4 gambling proceeds are distributed to authorised purposes and not to any other purpose. It imposes stringent penalties if a corporate society fails to do so, and we submit that this is appropriate.
- 87. The distribution of proceeds to the area or district from which they originated is certainly desirable. But the effect of this clause in the Bill is that the operator would incur a

substantial fine or, upon conviction, the cancellation of a class 4 operator's licence and all class 4 licences held by that operator without the right of appeal.

88. The Council submits that the Bill's approach is unnecessarily onerous. The Secretary of Internal Affairs already has powers, conferred by section 58 of the Act, to suspend or cancel a licence if proceeds are not distributed for authorised purposes. Section 61 of the Act allows such a decision to be appealed. The existing powers are sufficient, and the right of appeal is appropriate.
89. The Council further submits that the current requirement in section 106 is unnecessarily restrictive and should be changed.
90. The section requires that a corporate society must distribute proceeds only to an authorised purpose that is "specified in the corporate society's licence, and not to any other authorised purpose permitted by the Act".
91. It is the Council's view that the existence of corporate societies with very narrow purposes is not desirable. It prevents them from funding worthy projects that are not included within their specific purposes, and restricts the ability of community organisations to apply for funding from the widest possible range of sources.
92. Section 106 is also inconsistent with the alternative funding proposal set out in paragraphs 41 to 52, above.
93. We therefore propose that:
  - Section 106(1) is amended by striking out the words "specified in the corporate society's' licence":
    - (1) *A corporate society must apply or distribute the net proceeds from class 4 gambling only to or for an authorised purpose ~~specified in the corporate society's licence~~.*

## **Clause 10: New sections 110A and 110B**

94. Auckland Council **opposes** clause 10 in its entirety.
95. The intention is to ensure a fairer and more transparent distribution of class 4 gaming proceeds, which the Auckland Council fully supports. But the proposed funding model is unwieldy. For the reasons set out in the section titled "New funding role", above.
96. In the section titled Alternative funding proposal, above, we have set out the basis of a viable alternative. This proposal emerged from the working party's deliberations toward the end of the process, so detailed amendments were not completed and agreed by council before the deadline for this submission.
97. Auckland Council may provide detailed amendments when it presents its submission to the committee. These amendments would consist principally of proposed changes to:
  - Clause 7 of the Bill: *When territorial authority consent is required*, and;
  - Clause 8 of the Bill: *Territorial authority must adopt class 4 venue policy*, and;
  - Consequential amendments to sections 50 and 52 and 103 of the Act.

## LOCAL BOARD RESOLUTIONS

98. The resolutions in this section were passed by local boards, during the preparation of this submission. Over the course of June and July, the content of the bill was considered at the following local board meetings. Most local boards had the benefit of a 30-60 minute workshop on the bill, followed by a business meeting at which formal resolutions were passed.

<b>Board</b>	<b>Informal workshop</b>	<b>Formal Business Meeting</b>
Albert - Eden	6 June	6 June
Devonport-Takapuna	5 June	5 June
Franklin	(not required)	19 June
Great Barrier	(not required)	13 June
Henderson - Massey	21 June	21 June
Hibiscus and Bays	(not required)	6 June
Howick	7 June	11 June
Kaipatiki	20 June	27 June
Mangere - Otahuhu	6 June	27 June
Manurewa	12 June	14 June
Maungakiekie - Tamaki	12 June	19 June
Orakei	21 June	(not required)
Otara - Papatoetoe	13 June	19 June
Papakura	(not required)	20 June
Puketapapa	27 June	28 June
Rodney	5 June	11 June
Upper Harbour	(not required)	26 June
Waitakere Ranges	27 June	27 June
Waitemata	12 June	18 June
Whau	12 June	12 June

99. The political working party of governing body and local board members also met three times to discuss and formulate the submission as described below:
- 26 June To review the content of the Bill and to determine a position on the key changes that the Bill has proposed.
  - 6 July To agree on the detail of stronger regulatory powers and evaluate alternative funding model options that could be included in the submission.
  - 11 July To agree on the preferred funding model option, review the clause-by-clause response, and approve the wording of the draft submission.

## Albert-Eden

The Board nominates Simon Randall of the Maungakiekie-Tāmaki Local Board and Julie Fairey of the Puketāpapa Local Board for the working party established by the Regional Development & Operations Committee to develop the Auckland Council submission on the Gambling (Gambling Harm Reduction) Bill.

That the Board provide feedback on the *Gambling (Gambling Harm Reduction) Amendment Bill* to the working party established by the Regional Development & Operations Committee.

That the Board requests a report into the progress made by Auckland Council on a city-wide policy on gambling machines, in particular identifying opportunities for the Board to:

- i) Determine that a sinking-lid policy, which does not allow relocation of machines, be adopted in the Albert-Eden Local Board area; and
- ii) Advocate at a regional level for a sinking-lid policy, which does not allow for re-location of machines, across the entire Auckland Council area.
- iii) Look at opportunities to reduce harm caused from gambling machines such as restrictions on operating hours.

That the Board expresses its strong opposition to any deal for a new international convention centre which would result in an increase in gambling machines in Auckland, including an increase in any venue, in accordance with our position on gambling machines in our 2011 Local Board Plan.

## Devonport-Takapuna

That the Devonport Takapuna Local Board opposes the funding role proposed in the Bill because of the potential for conflict of interest over time, but supports the stronger regulatory role as consistent with the governance function of Auckland Council.

That the Devonport-Takapuna Local Board forward the nomination of Member Bergin to sit on the Governing Body/Local Board Gambling Harm Reduction Bill working party.

## Franklin

That the Franklin Local Board supports a regulatory role for local government, as proposed by the *Gambling (Gambling Harm Reduction) Amendment Bill*.

That the Franklin Local Board supports reform to the way in which gaming machine grants are allocated to ensure that funding is fairly and transparently distributed, including giving local authorities the power to:

- i. Specify the purposes for which funding may or may not be distributed;
- ii. Ensure that a fair proportion of funding is returned to the communities from which it originated, and;
- iii. Appoint community members to funding distribution committees.

## Great Barrier

That the Great Barrier Local Board confirms it does not wish to make a resolution regarding the Gambling Harm Reduction Bill, due to the absence of any gaming machines on Great Barrier Island

## Henderson-Massey

That the Henderson-Massey Local Board supports the sinking lid policy contained in the Gambling Policy of the former Waitakere City Council, and asked that this approach be addressed in the Auckland Council submission.

That the Henderson-Massey Local Board supports a stronger regulatory role for local government than that proposed in the *Gambling (Gambling Harm Reduction) Amendment Bill*, including the ability to:

- i. Reduce the number of Class 4 venues in an area;
- ii. Control the hours of operation of Class 4 machines in a venue, or type of venue, in its district or any part of its district;
- iii. Prescribe requirements for the design, layout, and furnishing of class 4 venues, and;
- iv. Declare a venue or type of venue as suitable, or unsuitable, to be a class 4 venue.

That the Henderson-Massey Local Board supports reform to the way in which gaming machine grants are allocated to ensure that funding is fairly and transparently distributed, including giving local authorities the power to:

- i. Specify the purposes for which funding may or may not be distributed;
- ii. Ensure that a fair proportion of funding is returned to the communities from which it originated,

That the Henderson-Massey Local Board supports allowing the provisions in the Gambling Act that apply to class 4 gaming machines to remain in respect of licensing trusts.

That the Henderson-Massey Local Board notes that the Gambling Harm Reduction Bill should not increase the cost to council of being involved in the administration and regulation of Class 4 gambling.

## Hibiscus and Bays

*The board did not take a position on the bill.*

## Howick

That the Howick Local Board supports the two proposals in the Bill, that Local Authorities should have a greater role in:

- i) regulating Class 4 gaming; and
- ii) distributing the funds derived from Class 4 gaming locally.

That the Howick Local Board supports the continuation of the “sinking lid” policy.

## Kaipatiki

That the Kaipatiki Local Board make a submission in its own right on the Gambling (Harm Reduction) Amendment Bill in addition to asking the Governing Body to reflect the Board’s views in the Auckland Council submission.

That the Kaipatiki Local Board notes:

- The importance of appropriately controlling the gambling industry to enable those sections of the public who enjoy participating in the activity to do so, while minimising the social harm arising from problem gambling;
- The reliance many community groups have on sponsorship funding from Pokie Trusts;
- The successful role local trusts have played in supporting Kaipatiki local groups.

That the Kaipatiki Local Board submission supports Territorial Local Authorities being empowered to reduce or eliminate the number of pokie machines and the venues in particular suburbs or towns where public sentiment and evidence of harm justifies this.

In particular, the Board supports:

- a licence renewal scheme but based on a five year term;
- a sinking lid policy (number of venues and number of machines in the area, reallocation of machines);
- a ban on transferring of licences between venues; but only supports:
- business closure for reasons of poor management or issues with problem gambling.

That the Kaipatiki Local Board submission seeks the transfer of the regulatory powers of the Minister to Local Authorities to allow them to include in their Gambling Venue Policies the ability to regulate certain matters currently prescribed in Section 313 of the Act (regulations to harm prevention and minimisation) such as:

- Prescribing requirements for the design, layout and furnishing of a class 4 venue.
- Regulating the concentration of gambling positions at a venue, for instance:
  - the number and spacing of gaming machines; and
  - the number of seats at those machines.
- Declaring a venue, or class of venues as suitable to be a class 4 venue.

That the Kaipatiki Local Board submission seeks to cut out racing and race stake money as an authorised charitable purpose.

That the Kaipatiki Local Board submission supports having a minimum of grant funds allocated to the area from which they are sourced and earned. However, more information is required before a detailed proportion can be defined.

That the Kaipatiki Local Board supports the current governance arrangement of independent trusts/societies distributing pokie grants, as this process successfully provides for communities and effective management of the distribution process.

That the Kaipatiki Local Board submits that :

- The Bill is changed to include a Parliamentary appointment (of one of two Trustees) onto every Pokie Trust.
- The remuneration of the Pokie Trustees be determined on a recommendation from the Remuneration Authority.

That the Kaipatiki Local Board supports in principle player tracking devices and pre-commit cards for class 4 gaming venues but only after the technology is proven as workable and affordable.

That the Kaipatiki Local Board submits that the distribution of funds should balance the need of the broad range of community uses and that legislation should prescribe the purposes to which funding can be granted and that all funding should be distributed under that legislation (including arts, culture, sport, health and general community uses).

That the Kaipatiki Local Board notes that there is no information on cost implications of:

- management;
  - disbursement; or
  - accountability
- if these aspects are to be a Territorial Authority responsibility.

That the Kaipatiki Local Board submits that the allocation of casino revenues for community grant purposes be reviewed to introduce greater equity of the redistribution requirements for Pokies outside of casinos.

## Mangere-Otahuhu

That the Māngere-Ōtahuhu Local Board supports a stronger regulatory role for local government than that proposed in the *Gambling (Gambling Harm Reduction) Amendment Bill*, including the ability to:

- i. Reduce, and eventually eliminate, class 4 venues from the area
- ii. Adopt a robust process for reducing and eliminating class 4 venue numbers, which provides legal certainty
- iii. Control the hours of operation of a venue, or type of venue, in a local board area or any part of a district
- iv. Declare a venue or type of venue as suitable or unsuitable to be a class 4 venue; and
- v. Require that research is provided by central government at local board level on the social and economic impacts of gambling and evidence of harm to be used in policy making.

That the Māngere-Ōtahuhu Local Board supports reform to the way in which gaming grants are allocated to ensure that funding is fairly and transparently distributed, including giving local authorities the power to:

- i. Specify the purposes for which funding may or may not be distributed
- ii. Ensure that a fair proportion of funding is returned to the communities from which it originated
- iii. Appoint local board members to funding distribution committees as well as community representatives, similar to the Creative Communities funding distribution model
- iv. Enable a local board, in line with its local board plan, to decide which purposes will and will not be funded within its area, and the proportion of such funding
- v. Require that licensed casinos be required to distribute a percentage of net proceeds to authorised community purposes

That the Mangere-Otahuhu Local Board will file a submission on the Gambling Bill based on the above recommendations by 18 July 2012.

## Manurewa

That the Manurewa Local Board supports a stronger regulatory role for local government than that proposed in the *Gambling (Gambling Harm Reduction) Amendment Bill*, including the ability to:

- i) Reduce the number of Class 4 venues in an area;
- ii) Control the hours of operation of a venue, or type of venue, in its district or any part of its district;
- iii) Prescribe requirements for the design, layout, and furnishing of class 4 venues, and;
- iv) Declare a venue or type of venue as suitable, or unsuitable, to be a class 4 venue, including the transfer of all of the gaming machines.
- v) All gambling sites should have clocks visible at all times.

That the Manurewa Local Board supports the distribution of all of gaming machine funding back to the communities from which it originated.

That the Manurewa Local Board opposes the new funding role proposed for Local Government in the *Gambling (Gambling Harm Reduction) Amendment Bill* for the following reasons:

- i) ratepayers should not be subsidising the administration costs for distributing gaming machine grant money

- ii) grass roots sports organisations will be adversely impacted
- iii) it is not the business of Auckland Council or any other territorial authorities to determine the allocation of the proceeds of gaming machines. Territorial authorities cannot concurrently be a regulator, a distributor and a potential beneficiary of gaming money.

## **Maungakiekie-Tamaki**

That the Maungakiekie-Tamaki Local Board makes the following submissions to the working party on the Auckland Council submission on the Gambling (Gambling Harm Reduction) Amendment Bill:

- i) regulating Class 4 gaming
  - a. The Maungakiekie-Tamaki Local Board supports increasing and better defining the regulatory role of Territorial Local Authorities (TLAs) with regards to class 4 venue licences
  - b. The Board further supports the limiting of licence length to 3 years as it allows for greater scrutiny of the licences within a certain area, and for the Council to give greater effect to its class 4 venue policy
  - c. The Board supports the proposed requirement that all TLAs have a class 4 venue policy, and that this takes into account the social impact of such venues and public sentiment about them
  - d. The Board supports the empowerment of TLAs to reduce the density of venues or number of machines in venues if this is consistent with its class 4 venue policy, although the board would support greater clarity in the legislation on how such a reduction could be achieved in a fair and transparent manner. The board would support amendment to institute such a mechanism allowing for a competitive tender policy to be judged on factors such as harm minimisation policies and others which support the intent of the TLAs class 4 venue policy
  - e. The Board suggests the bill be amended to allow TLAs to control the hours of operation or access to class 4 gaming machines
  - f. The board further suggests that the bill also be amended to allow the transfer of some of the regulatory powers, such as around venue layout and the assessment of whether or not a venue is suitable to be a class 4 venue, which are currently allocated to the Minister in section 313 of the principle Act. These roles sit alongside monitoring roles TLAs conduct in regards to alcohol, housing and the environment. Associated with this would require a funding mechanism to local government in order to support the monitoring and enforcement, this could take the form of a levy on class 4 venues or a grant from the taxation collected from class 4 machines.
- ii) distributing the funds derived from Class 4 gaming
  - a. The Maungakiekie-Tamaki Local Board recognises that the current distribution model of funding through corporate societies does not achieve community desires of serving the community from where the pokie machines are located, and also around transparency of process.
  - b. The Board supports any move which shifts distribution of the net proceeds from gambling machines to committees with closer connection to the communities where the proceeds are generated from. The board supports the general mechanism proposed in the Bill, especially with the stipulations surrounded appointed members of such committees and the consultation process prescribed, but would suggest that, in the case of Auckland Council, the committees and the associated administration would be overly expensive and that funding committees could cover multiple areas with membership being allocated to areas based on the percentage of machines in each area.
  - c. The Board further supports a defined minimum percentage of net Gambling Machine Proceeds for distribution locally, although would suggest further

examination of the definition of 'local' in the Bill as some pokies can take from a catchment that is not accounted for in political divisions. The Board further supports that this percentage be set at, at least 80% of net Gambling Machine Proceeds.

- d. The Board would suggest greater clarity be given in the Bill to what reasonable expenses can be taken by corporate societies given the removal of this funding role from them, and what reasonable expenses for the administration of this funding can be allocated to TLAs
- iii Other matters:
- a. The Board suggests that the Bill be amended to make greater provision for those affected by problem gambling such as the problem gambler's family, employers and community. This could take the form of a dedicated fund or other measures that addresses this issue.
  - b. That the Maungakiekie-Tamaki Local Board make its own submission on this bill to the Commerce Select Committee along the lines set out in b) and that the Chairperson of this committee and Board Members Bartley and Clark be empowered to sign off on the final text of the submission on behalf of the board.
  - c. That the Maungakiekie-Tamaki Local Board note that as part of this process the board engaged with key stakeholders and received several submissions which addressed these issues during consultation on its 2010-2013 Local Board Plan.

## Orakei

In summary, the OLB:

- Supports a change to the current legislation that would require a minimum of 80% of distributable funds to be returned to community groups in the region where the money was raised- region determined to be TLA regions. Ie AUCKLAND.
- Does not support changes to the Act to enabling LTAs to determine location and extent of community-based gaming. The current Gambling Act already states the onus is the territorial authority to manage the social impact aspect of community-based gaming and 84% of LTAs have either a cap on the number of gaming machines or a sinking lid policy in place already.
- Does not support phasing out Pokie Trusts in lieu of local government committees as the current model is already very efficient and replicating that process elsewhere simply adds additional cost with no benefit.
- Supports continued harm minimisation efforts and suggest an independent review of how effective problem gambling initiatives are is timely.
- Supports the appointment of a Ministerial Advisory Group using people involved across the whole spectrum of the current Gaming sector to look at potential areas of improvement to the legislation that will increase transparency in the distribution guidelines and accountability, reduce harm/negative effects by supporting problem gaming with funding for education and support to approved specialist organisations able to deliver in this field and increase the benefit to the general New Zealand community who benefit from the funding from this source.

## Otara-Papatoetoe

That the Otara-Papatoetoe Local Board supports a stronger regulatory role for local government than that proposed in the Gambling (Gambling Harm Reduction) Amendment Bill, including the ability to:

- i) Reduce and/or eliminate class 4 venues from the area
- ii) Adopt a robust process for reducing or eliminating class 4 venue numbers, which provides legal certainty

- iii) Control the hours of operation of a venue, or type of venue, in a local board area or any part of a district
- iv) Prescribe requirements for the design, layout and furnishing of class 4 venues
- v) Declare a venue or type of venue as suitable or unsuitable to be a class 4 venue; and
- vi) Require that research is provided by central government at local board level on the social and economic impacts of gambling and evidence of harm to be used in policy making.

That the Otara-Papatoetoe Local Board supports reform to the way in which gaming grants are allocated to ensure that funding is fairly and transparently distributed, including giving local authorities the power to:

- i) Specify the purposes for which funding may or may not be distributed
- ii) Ensure that a fair proportion of funding is returned to the communities from which it originated; and
- iii) Appoint the majority of local board members to funding distribution committees
- iv) Enable a local board, in line with its local board plan, to decide which purposes will and will not be funded within its area, and the proportion of such funding
- v) Require that licensed casinos be required to distribute a percentage of net proceeds to authorised community purposes.

That the Otara-Papatoetoe Local Board will file a submission on the Gambling Bill based on the above recommendations by Thursday 21 June 2012.

## **Papakura**

Regulatory Role for Local Government:

- a) That the Papakura Local Board supports the stronger regulatory role for local government, as proposed by the *Gambling (Gambling Harm Reduction) Amendment Bill* but would like to see the Government address the issue of loss of revenue to local communities.

Funding Role:

- a) That the Papakura Local Board supports the funding role, as proposed in the *Gambling (Gambling Harm Reduction) Amendment Bill*, (on the understanding that a local authority will be able to meet, out of gaming machine proceeds (and not out of ratepayers' funds), the costs of servicing the proposed distribution committees, processing applications and administering grants).
- b) That the Papakura Local Board supports reform to the way in which gaming machine grants are allocated to ensure that funding is fairly and transparently distributed, including giving local authorities the power to:
  - i. Specify the purposes for which funding may or may not be distributed;
  - ii. Ensure that a fair proportion of funding is returned to the communities from which it originated, and;
  - iii. Appoint members of funding distribution committees.

## Puketapapa

That the Puketapapa Local Board reiterates its commitment to a sinking lid policy on pokie machines, locally and across Auckland, as laid out in its Local Board Plan 2011 and as reconfirmed in resolution PKTPP2012/112.

That the Puketapapa Local Board supports a stronger regulatory role for local government that that proposed in the *Gambling (Gambling Harm Reduction) Amendment Bill*, including the ability to:

- i) reduce the number of Class 4 venues, or machines, in an area;
- ii) control the hours of operation of a venue, or type of venue in its district or any part of its district;
- iii) prescribe requirements for the design, layout, and furnishing of Class 4 venues;
- iv) declare a venue of type of venue as suitable, or unsuitable, to be a Class 4 venue;
- v) require that research is provided by central government, broken down to local board areas, on the social and economic impacts of gambling and evidence of harm to be used in policy making;
- vi) adopt a robust process for reducing or eliminating Class 4 venue numbers, or machines, which provides legal certainty; and
- vii) consider the social and economic impact of gambling and public sentiment about such venues in decision making

That the Puketapapa Local Board supports the limiting of licence length to three years as it allows greater scrutiny of the licenses within a certain area, and for the council to give greater effect to its Class 4 venue policy

That the Puketapapa Local Board recognises that the current distribution model of funding through pokie trusts does not achieve community desires of serving the community in which the pokie machines are located, and also around transparency of process. The Board notes that the current model may also inadvertently disincentivise harm minimisation measures in relation to gambling.

That the Puketapapa Local Board supports reform to the way in which gaming machine grants are allocated to ensure that funding is fairly and transparently distributed. Any such system must ensure that a fair proportion of funding is returned to the communities from which it originated. While the Board does not unanimously support the current model outlined in the Bill, if that were to be pursued we advocate that:

- i) Local authorities are empowered to determine an appropriate funding model within their own area; and
- ii) The Bill clarifies what reasonable expenses for the administration of this funding can be allocated to TLAs, and clearly states that any administration expenses falling to TLAs as a result of a new funding model would be covered by gambling machine proceeds, and not from rates; and
- iii) That particular attention be paid to the issue of conflicts and how those conflicts could be addressed in the funding model.

That the Puketapapa Local Board supports a defined minimum percentage of net gambling machine proceeds for distribution locally, although would suggest further examination of the definition of local in the Bill, as current political boundaries within Auckland Council may not accurately reflect the catchment of Class 4 venues, and may not be practical units to operate separate funding mechanisms for

That the Puketapapa Local Board suggests that the Bill give clarity to what reasonable expenses for the administration of this funding can be allocated to TLAs and clearly states that any administration expenses falling to TLAs as a result of the new funding model would be covered by gambling machine proceeds, and not from rates

That the Puketapapa Local board reiterates its advocacy for measures to address any loss of income experienced by genuine community organisations as a result of a reduction in pokie machines, as outlined in resolution PKTPP/2012/112, and suggests that the bill consider incorporating the establishment of a similar body to the Health Sponsorship Council for this purpose

That the Puketapapa Local Board supports the adoption of stronger harm minimisation measures such as those proposed in the bill, and as outlined in resolution KTPP/2012/112.

## **Rodney**

That the Rodney Local Board support having a greater role in the regulation of Class 4 gaming and reject having any involvement in distributing the funds derived from Class 4 gaming.

## **Upper Harbour**

That the Gambling Harm Reduction Bill – Select Committee Submission : Resolutions from the Regional Development and Operations Committee report, be received.

That the Upper Harbour Local Board wishes to make resolutions regarding the Gambling (Harm Reduction) Amendment Bill, further to the deliberations of the Working Party.

That it be noted that the Upper Harbour Local Board is concerned that changes to legislation may lead to a reduction of funds available to community groups, preventing them from providing services to their local communities. This would result in an increase in funding applications to the Governing Body and Local Boards who do not have additional funding available for this purpose.

That the Upper Harbour Local Board supports the stronger regulatory role for local government, as proposed by the Gambling (Gambling Harm Reduction) Amendment Bill.

That the Upper Harbour Local Board supports reform to the way in which gaming machine grants are allocated to ensure that funding is fairly and transparently distributed, and that the legislation should specify the purposes for which funding may be considered for distribution.

That the Upper Harbour Local Board opposes the new funding role proposed for Local Government in the Gambling (Gambling Harm Reduction) Amendment Bill.

That the Upper Harbour Local Board supports the review by the Department of Internal Affairs (DIA) of the percentage of funds to be allocated for authorised purposes.

## **Waiheke**

The Waiheke Local Board:

- Supports the Amendment Bill in that it seeks to address possible adverse effects on community and social well-being and may enhance the economic well-being of the families of problem gamblers.
- Believes that a positive benefit from the Amendment Bill is that 80% of the funds will remain in the local board area from which they are taken, and that there will be an important correlation between the money raised from a community and money spent in that community.
- Supports the establishment of a local board committee, which is 80% comprised of members from the wider community. This committee would oversee the distribution of gambling funds to people and organisations other than the gambling establishments from which they have been generated.
- Notes that community and social well-being will be enhanced by 'player tracking devices' and 'pre-commitment cards' to better identify and deter problem gamblers.
- Believes that if this Bill is passed, it will make a significant contribution to the improved social well-being of the Waiheke community and other communities around the country.

The Waiheke Local Board:

- Notes that Club venues return all or most of their proceeds from Class 4 gambling to the Club in which the machines are located, so many of the issues that the Bill seeks to address are not pertinent for them. (ie. that the issues the Bill seeks to address are almost entirely related to public venues). We believe that the Bill needs to be strengthened to make this distinction more explicit since there are fears that, if the Bill is passed in its current form it will have a negative effect on Clubs and that does not appear to be the intention.
- For the above reason, the Waiheke Local Board is satisfied that the Bill will not impact adversely on local club venues such as the Waiheke Returned Services Association (RSA) and the Surfdale Bowling Club, which rely to a large extent on funding from their respective pokie machines to address their various costs and responsibilities. Further, we believe that these Club venues make a valuable contribution to our community and appear to manage their facilities responsibly.

Overall the Waiheke Local Board believes that the Gambling (Gambling Harm Reduction) Amendment Bill will have a positive effect on the social and economic well-being of our and other communities and start to address the significant negative economic and social effects of problem gambling behaviour.

## Waitakere Ranges

That the Waitakere Ranges Local Board supports Waitakere City Council's gambling machine sinking lid policy.

That the Waitakere Ranges Local Board supports a new international convention centre for Auckland, but does not support any deal that will result in an increase in gambling machines in Auckland, including an increase in the number of machines in any venue.

That the Waitakere Ranges Local Board supports stronger measures around harm minimisation of the effects of gambling including, but not limited to:

1. The appointment of harm minimisation officers responsible for identifying problem gamblers and intervening;
2. Pre-paid gambling cards with daily and weekly spending limits;
3. On-screen harm minimisation messages that would be displayed before pokie machines could be activated;
4. A system that prevents medium to large prizes from being reinvested into pokie machines.

That the Waitakere Ranges Local Board encourages the Governing Body to advocate to Government a request that the percentage of profits returned to community funding paid by casinos is increased beyond the current level of 2.5%.

That the Waitakere Ranges Local Board seeks that the Governing Body advocate to Government for the introduction of measures to address any loss of income experienced by genuine community organisations as result of the sinking-lid policy.

## Waitemata

The board wishes to highlight its support for the following key points:

- the ability of local authorities (in Auckland's case local boards) to reduce or eliminate pokie machines and venues
- the establishment of independent distributional committees to distribute gambling proceeds with 80% of these funds been distributed back to the community in which each class 4 venue is located; and,
- further investigation of other mechanisms and tools for the reduction of gambling.

## **Whau**

That the Whau Local Board supports Auckland Council submitting to the Gambling (Gambling Harm Reduction) Amendment Bill that Council play a role in regulating Class 4 gaming though not in distributing the funds derived from Class 4 gaming.

That the Whau Local Board requests that as part of the submission an emphasis is placed on the need for transparency in the future decision making bodies distributing gaming funds.