

Submission to the Department of Internal Affairs

In the matter of the *Discussion
Document: Review of Class 4 gambling*

Auckland Council, July 2016



Mihimihi

Whakarongo ake au ki te tangi a te Manu Tui – Tui – Tui.

Tuia I runga, tuia I raro.

Tuia I waho, tuia I roto.

Tuia te muka tangata I takia mai I Hawaiki Nui, I Hawaiki Roa, I Hawaiki Pāmamao.

Te here ki Wairua, ki te whei Ao, ki te Ao Mārama.

Tihei Mauri Ora.

E ngā Mana, e ngā Reo, e ngā Waka o te Motu, tēna koutou, tēna koutou, tēna koutou katoa.

Ko te reo mihi tenei o te Kaunihera o Tāmaki Makaurau, me rātou ngā Iwi katoa, Mana Whenua, Maataa Waka, me Tauīwi mā, e noho atu nei I raru I te maru o ngā maunga tapu o Tāmaki Makaurau, Tamaki hereherenga waka.

E mihi ana hoki kia rātou te hunga kua wheturangitia, kua haere nei I runga I te huarahi I takahia atu nei e te tini e te mano – haere koutou, haere, haere haere.

Takoto mai I roto I ngā pari karauna ki te taha o ngā Mātua Tupuna.

Koutou rā te hunga Wairua – koutou kia koutou.

Tātou te hunga ora – tātou kia tatou.

Ko te wawata – kia piki te ora, kia piki te kaha kia tatou katoa – mauri ora.

Ko te kōrero nei ...“te pai me te whai rawa o Tamaki” ehara no naiane ano – mai rano te noho o tenei kōrero ki tenei rohe. Engari he ao hurihuri tenei, he ao e ākina ana e ngā hau e whā, mai I te raki ki te tonga, mai I te rāwhiti, ki te tuaaru. He maha ngā tikanga rerekē, o tena, o tena, me te maha hoki o ngā kaupapa. Ko te kaupapa nei o ngā mahi petipeti, me āta whakaarotia, me āta wānangatia kia puta ai ngā whakaaro me nga ritenga e haere kotahi ai tatou I runga I te huarahi o te tika, o te pono, me te aroha. He taonga tukuiho enei nā ngā matua Tupuna, no reira kōkiritia, āwhinatia he painga mo tatou me ngā uri kei te heke mai.

“Mā te mahi ngātahi – e taea ai ngā taumata.”

No reira noho ora mai, I raro I nga manaakitanga o te Runga Rawa.

Mauri ora.

I hear the call of the Tui bird.

Calling from above – calling from below.

Calling from the outside – calling from the inside.

Calling to the many generations of descendants from the Big Hawaiki (Hawaiki nui), the Long Hawaiki (Hawaiki roa), to the everlasting Hawaiki (Hawaiki pamamao). Weaving through the many strands of the spiritual world to the living world – the world of knowledge and understanding.

The breath of life.

To all Authorities, Cultures languages, Waka, and all communities of the Region, greetings to you all.

Greetings from the Auckland Council, from Mana Whenua and Maata Waka (other tribal people living in Tamaki Makaurau). Greetings from the People of Auckland, sheltering within the Ancestral Maunga of Tamaki Makaurau (Tamaki desired by many), Tamaki Herenga Waka (Tamaki the mooring place of many waka).

We pay our respect to the many departed loved ones – on their eternal journey, traversed by many before – farewell, farewell. Rest in Peace.

Let the spirit world to the spirit world – the living world to the living world.

Good life and many blessings.

Words that are often stated, “Tamaki the land of abundance,” are not just words of today – they have been used to describe this place over many generations. We live in a very changing world, lashed by the North, South East and West winds. Many people, with many different customs, language and different aspects of life have arrived on these shores.

With regards to the matter of problem gambling, we need careful discussion and consideration, and to work collaboratively, to seek solutions. Fruitful discussion based on the principles of faith (whakaponu), hope (tumanako), and aroha; principles passed down through generations by our Ancestors. We need to engage in these principles, seek more understanding not only for our benefit but for the benefit of our future generations.

“We can achieve more by working together.”

Sincere blessing to all.

“The breath of life”

Title: Discussion Document: Review of Class 4 gambling

Submission to the Department of Internal Affairs.

1. Introduction

- 1.1. This submission is from Auckland Council (“the Council”), Private Bag 92300, Auckland 1142. It contains the Council’s feedback to the Department of Internal Affairs (“the Department”) on the *Discussion Document: Review of Class 4 gambling* (“the discussion document”).
- 1.2. The submission represents the views of Auckland Council, including the governing body and local boards. It has been developed by the Class 4 Gambling Political Working Party, and approved by the Regional Strategy and Policy Committee on 4 August 2016 (*insert resolution number*).
- 1.3. Auckland Council welcomes the opportunity to provide feedback on the *Discussion Document: Review of Class 4 gambling*. The discussion document covers a wide range of topics, so the Council’s commentary is focussed on sections which impact on, or strongly relate to, its activities.
- 1.4. There are also questions posed by the Department which do not directly impact the Council, but are areas the Council has received a lot of feedback on from Aucklanders. The Council comments here in its capacity as an advocate for its diverse communities.
- 1.5. In summary, the Council:
 - supports retaining, and increasing, the minimum rate of return
 - supports requiring the return of a percentage of funds to the community of origin
 - supports strengthening the role of local government in gambling venue licensing, and extending the period between mandatory reviews
 - does not support policy approaches that prevent market forces from driving efficiencies in the gambling sector; more efficient societies would increase the percentage of player losses returned to the community
 - recommends that more stringent enforcement is undertaken to improve the sector’s compliance with governing legislation and minimise the impact of problem gambling.

2. Opening comments

2.1. The *Auckland Plan*, Auckland's 30 year strategy and vision, identifies addressing gambling-related harm as a key way to improve health and wellbeing in the region.

2.2. Albert Eden, Howick, Māngere-Ōtāhuhu, Manurewa, Maungakiekie-Tāmaki, Ōtara-Papatoetoe, Papakura, Puketāpapa and Waitemata local boards have also specifically prioritised addressing gambling harm, through their local board plans for 2014/15 – 2016/17. As an example, the *Māngere-Ōtāhuhu Local Board Plan* states:

The harmful effects of gambling and alcohol are even worse for those in our communities who are living on low incomes, in rented homes and not always in employment.

2.3. The Council has submitted the following documents on gambling-related matters in the last four years. These previous submissions and advocacy positions are relevant to the topics covered in the discussion document, and will be referenced throughout this submission:

- Submission to the Commerce Committee in the matter of the Gambling (Gambling Harm Reduction) Amendment Bill, July 2012
- Submission to the Commerce Select Committee in the matter of the New Zealand International Convention Centre Bill, 22 August 2013
- Submission to the Department of Internal Affairs in the matter of four Class 4 gambling proposals, Auckland Council, October 2013
- Letter to Minister Dunne regarding the definition of local areas when determining the distribution of class 4 gambling proceeds within Auckland, 18 August 2014
- Submission to the Government Administration Committee in the matter of the Gambling Amendment Bill (No 3), January 2015
- Submission to the Ministry of Health in the matter of the Strategy to Prevent and Minimise Gambling Harm 2016/17 to 2018/19: Consultation document, 8 September 2015
- Submission to the Department of Internal Affairs in the matter of the Consultation on proposed changes to the minimum rate of return to authorised purposes, 20 November 2015.

2.4. Governmental departments have consulted extensively on gambling-related legislation, regulations, and policy documents; many of the topics addressed in the discussion document have been well-canvassed recently.

2.5. The Council notes that preparing submissions is a resource-intensive process, particularly for community groups and smaller organisations. We request that the Department turn its mind to submissions by such groups, on other recent consultation exercises, in considering the next steps for the class 4 ("pokie") sector review.

3. Legislative restrictions on the class 4 sector

Given the changes in the sector since 2003, are the purposes of the Gambling Act still fit-for-purpose?

Do you think any changes should be made to the requirements on the class 4 sector? If so, what changes?

What would the impact of any changes be on the responsibility to prevent and minimise harm from gambling?

- 3.1. Significant changes to gambling legislation were debated and agreed recently, culminating in the *Gambling (Gambling Harm Reduction) Amendment Act 2013*. Nearly all topics covered in this discussion document were considered either when the Amendment Bill was consulted on and debated, or in the development of subsequent legislation and regulations.
- 3.2. Given the recency of these debates, and the fact that the sector has not changed significantly since then, the Council does not agree that the purposes or intent of the legislation need to change. As outlined in the discussion document, gambling profits and community funding have stabilised over the last few years, that is, gambling spend has started increasing again. However, the Council agrees that there is scope for improving the workability and effectiveness of the legislation.
- 3.3. The Council considers the discussion document's use of the term "sustainable" problematic in reference to funding from gambling. The Council acknowledges that many community groups are reliant on the funding from class 4 ("pokie") gambling, and that these organisations are able to achieve great good for communities with the grant money they receive. However, the solution is finding an alternate source of funding that is sustainable, rather than ensuring that gambling is continued at levels that are destructive for many individuals and communities.
- 3.4. The discussion document estimates that half of class 4 ("pokie") gambling takings are losses from problem gamblers. Key indicators for at-risk gambling are living in a highly deprived area and belonging to some ethnic minorities; reducing total takings would represent a targeted improvement in the lives of those most vulnerable. A large proportion of New Zealand's Pacific and Asian people live in Auckland, so the Council has a strong interest in this issue.
- 3.5. The discussion document comes in the context of a government that is focusing on reducing harm to its most vulnerable populations. The Ministry of Health's latest *Strategy to Prevent and Minimise Gambling Harm* also focuses on addressing persistent inequities. People most at risk of harm from class 4 ("pokie") gambling are also New Zealand's most vulnerable.
- 3.6. The Council considers that the government must take a "joined-up" approach in managing gambling. The *Gambling Act 2003* ("the Act") is the Department's to administer, but it has significant impacts on other areas of government activity as well.

4. Class 4 funding to communities: minimum rate of return

Is a minimum rate of return the best way to maximise funds to the community?

Do you have any suggestions on how society costs could be lessened to improve the return to communities?

- 4.1. The Council recommends that the minimum rate of return is increased again. This would increase the amount available to the community as grants and reduce the number of societies operating without the need for any Departmental intervention. See section 11, “non-club class 4 gambling sector”, for further detail.
- 4.2. The discussion document represents the third time the Department has proposed changing the minimum rate of return to authorised purposes in as many years. The Council has advocated for an increase to the rate of return for a long time and is strongly opposed to removing such a requirement; this would be in conflict with the stated purpose of gambling.
- 4.3. The Council refers to its November 2015 submission to the Department of Internal Affairs.

The current regulations (40 per cent increasing to 42 per cent by August 2019) are not sufficient for generating an appropriate percentage of funds for the community.

...The consultation document references situations where increased costs, including the increased minimum rate of return, could lead to machines being removed from high-cost venues and a decrease in total spend on ‘pokies’. The consultation document then equates this with a decrease in returns to the community. The Council considers this to be flawed and potentially misleading... It fails to take into account the increase in money available because of the higher rate of return.

Any loss to total takings that can be reasonably expected should be weighed against the increase in grants that will be available to communities with the increased minimum rate of return.

The Council’s October 2013 submission on the Department’s Public consultation on four Class 4 gambling proposals also noted that:

Initially some corporate societies (pokie trusts) with high cost structures would exit the market, allowing their venues, machines and administrative functions to be taken over by more efficient operators.

This could reduce the number of pokie trusts. Assuming that there are efficiencies in making and monitoring grant decisions, trust mergers should result in an overall reduction in the administrative costs of funding distribution and an increase in returns to the community. Fewer pokie trusts would also be easier for the DIA to monitor – thereby reducing the cost for central government as well.

Retaining the scheduled increase to the minimum rate of return is expected to cause these inefficient operators to exit the sector, so the stated purpose of Class 4 ('pokie') gambling (that is, to raise money for authorised purposes, rather than making profits) is upheld, and the total amount returned to the community should, in fact, increase.

5. Class 4 funding to communities: grants process

What is your experience of the grants process (e.g. application, notification, etc)?

Do you think the process is accessible for everyone?

- 5.1. The Council undertook an extensive research project on the current distribution of losses and grants in 2014. This was to understand where money is being lost in Auckland, and where grants to community are made. This is discussed further in section 7, "diverse community needs", but the key findings are that, per capita, areas of higher deprivation lose more and see smaller returns, and more affluent areas lose less and see higher returns.
- 5.2. As well as demonstrating that funding is not granted in an equitable manner, this is symptomatic of the administrative burden placed on groups to access the funding. Those with experience in corporate processes and filing funding applications are much more likely to apply for grants, and then be successful in their applications. This excludes some organisations most stretched for resources, that are likely to benefit most from financial assistance.

6. Class 4 funding to communities: distribution of grants funding

What are your views on the current legislative settings around societies' authorised purposes?

Do you think the funding from class 4 gambling is achieving the maximum impact for the community? If not, why and what could change?

- 6.1. The Council agrees there is merit in re-examining the approach of setting authorised purposes in advance, though is sceptical of widening the authorised purposes to which funds can be applied overall.
- 6.2. The Council has heard from some constituent organisations, for example, low-decile schools, that they have been unsuccessful when applying to local societies for grants. This is because the societies only fund particular activities, and the organisation does not fall within those parameters.

- 6.3. The Council recognises that this is because societies' authorised purposes for funds are set by the licensing process. However, it appears that this is not well-understood by all applicants, and that determining fixed authorised purposes on an operator's licence is not necessarily helpful for applicants.

7. **Class 4 funding to communities: diverse community needs**

Should societies return funds to the communities where they were generated? Why?

- 7.1. The government has previously recognised that it is vital to ensure a significant proportion of funding is returned to the community where it is generated. The Minister of Internal Affairs ("the Minister") has also signalled that he will introduce regulations requiring 80 per cent of funds generated in a territorial authority area to be returned to that area. This will go some way to ensuring communities experiencing negative impacts of gambling are also able to experience some benefit.
- 7.2. The Council looks forwards to these regulations being made. The Council also offers recommendations as to how any regulations can best achieve the goal of ensuring equitable distribution, in section 8, "role of local government", below.

Overall, do you think the distribution of funding is equitable? If not, why and what could change?

- 7.3. As referenced in section 5, "grants process", the Council's research on distribution of losses and grants was a significant body of work, and was conducted in response to the Department's late-2013 consultation on this topic.
- 7.4. This research investigated the geographic distribution of both player losses and successful community grant applications in Auckland, and compared the results at a local board level. This work was reported to the Regional Strategy and Policy Committee in August 2014, and the Chair of the Regional Strategy and Policy Committee then wrote to the Minister with the Council's findings. The letter and accompanying documents has been appended in full for the Department's reference.
- 7.5. The Council welcomes this opportunity to formally supply the Department with its findings, which are that the distribution of funding is **not** equitable.
- 7.6. This work has painted a clear picture that the biggest losses are experienced by communities that are the most highly deprived, consistent with others' research findings, including the Department's own work on this matter. It also shows that:
- most highly or relatively deprived areas received significantly less than would be expected if grants to the area were consistent with takings

- most highly or relatively affluent areas received significantly more than would be expected if grants to the area were consistent with takings.

7.7. The Council's research and analysis also informed a preferred option for regulations specifying the return of funds to the community of origin. Dividing Auckland into seven sub-regions would ensure a much more fair allocation of grants, while still allowing grants to be made that benefit sub-regional areas (see the letter to the Minister, attached).

7.8. This is a matter of great interest and concern for many at Auckland Council, and has real impacts, especially on those in Auckland's most deprived communities. The Council is impatient for the regulations to be adopted; it would be disappointing to both the Council and those communities experiencing a disproportionate level of harm to be overlooked again. We urge the Department to progress the regulations as soon as possible.

8. The role of local government through local venue policies

What should the role of local authorities be in balancing the benefits of class 4 funding to their communities with the potential negative impacts?

8.1. Through their venue policies, local authorities give effect to constituents' views about the role of gambling in their community. Local venue policies are crucial in protecting vulnerable communities from further negative impacts of class 4 ("pokie") gambling. If local venue policies were strengthened further, a better balance could be achieved.

8.2. Local authorities are also best placed to bring some balance between positive and negative impacts of gambling on their communities. Local authorities should be able to determine appropriate areas within which funding is to be returned to the community of origin.

Giving effect to community aspirations through enhanced venue policies

8.3. Different communities' views of, and aspirations for, gambling in their neighbourhoods differ significantly. In response, territorial authorities are able to take a more fine-grained approach than could be achieved through national policy; gambling venue policies are the key tool giving effect to this.

8.4. However, many of Auckland's highly deprived communities, in particular, still consider that there are too many "pokie" machines. This is despite the "sinking lid" venue policy in place. Gambling venue policies should be strengthened. This could empower communities that suffer from an oversupply of "pokie" machines to achieve a better balance.

8.5. The Council's response to the following question expands on this.

Introducing equity in the distribution of grants funding

- 8.6. The Council has discussed the necessity of ensuring funds are distributed equitably, particularly in the Auckland context, in the “class 4 funding to communities” section above. The distribution of grants funding and diverse community needs are also relevant here; the Council is well-placed to understand where communities are that experience a disproportionate level of gambling-related harm.
- 8.7. The Council is also well placed to determine rules to provide these communities some balance, establishing areas within which a percentage of grants generated in the area must be returned and appropriate percentages of total grants to be returned to the area. For example, the Council considers that a lower rate of return is appropriate for the city centre; as a regional centre, money lost there has come from all over the city. A higher rate could also be investigated to rectify historic inequity in grant distribution, for example, in the Council’s Southern Initiative area.
- 8.8. The Council recommends that a proportion of funds which must be returned to the community of origin be established, as it has advocated for some time. The Council also recommends that territorial authorities be empowered to determine smaller, sub-regional areas, and rates of return to these areas as required, to ensure the Department’s policy aim of balancing negative impacts of class 4 (“pokie”) gambling with potential positive impacts is achieved. Creating these boundaries could easily be integrated into the Council’s gambling venue policy work.
- 8.9. This approach would allow the Minister to introduce regulations immediately, without having to first address the issues presented by the large Auckland Council area and preventing smaller territorial authorities from seeing equitable returns to their jurisdictions. It would also mean the Minister would not need to change regulations if gambling and funding patterns in Auckland change.
- 8.10. This is a position the Council has consistently advocated for. The Council references excerpts from its *Submission to the Commerce Committee in the matter of the Gambling (Gambling Harm Reduction) Amendment Bill*, made in July 2012:

The Bill proposes to make the distribution of proceeds from class 4 gambling fairer and more transparent, by requiring [territorial authorities] to set up and administer distribution committees... The Council proposes an alternative mechanism:

...Require pokie trusts to distribute funding within a [territorial authority’s] district in keeping with the criteria and rules set out in the [territorial authority’s] Gambling Venue Policy. These criteria would control where the funds go, for what purposes.

- 8.11. The Council also discussed this in its October 2013 submission to the Department:

Auckland Council’s view is that the Minister should:

- *Enable [territorial authorities] to define gambling policy areas appropriate to their local context.*

- *Enable [territorial authorities] to specify the required rate of return to each of these policy areas.*
- *Allow for the rates of return to vary depending on the characteristics of each policy area, including the number of class 4 machines and venues; the population size and density; the socio-demographic characteristics of each area.*
- *Acknowledge that national and regional grants may still benefit the local community within which the revenue has been generated.*

8.12. The Chair of the Regional Strategy and Policy Committee wrote to the Minister of Internal Affairs regarding the definition of areas for fund distribution in Auckland on 18 August 2014. This letter communicated the results of the research on distribution of losses and grants, and proposed fair boundaries for return of funds:

... a regional definition of "local", will not achieve this outcome [fair distribution of grants], particularly in the context of Auckland.

...The Regional Strategy and Policy Committee endorsed these proposed areas and resolved that I write to you, asking that you define areas within Auckland Region for the purposes set out in section 114 (3) of the Gambling Act 2003 accordingly.

A formal written definition of the proposed areas and accompanying maps are appended. I have also appended a copy of the policy advice that the committee received, setting out the issues, analysis and recommendations for the proposed areas.

The Regional Strategy and Policy Committee also resolved to support an 80% return to each of these areas, but with an exception to be made for the City Centre area where a lower rate of return of either 40% or 45% was supported.

8.13. If the Department does not agree with the approach of empowering territorial authorities to set areas for the return of funds, the Council reiterates its 2014 request that the Minister create seven sub-regional areas across Auckland, as specified in the attached letter, to ensure a fair and equitable distribution of funding.

Are there any requirements in the Gambling Act related to venue policies that should be changed? If so, which requirements?

8.14. The Council recommends that venue policies be strengthened to cover all forms of class 4 ("pokie") machines, both non-casino machines and those in casinos, as the exemption for casinos greatly undermines the Council's current policy.

8.15. The Council also reiterates its support for empowering local venue policies to reduce the number of class 4 gambling machines ("pokies"). This was first proposed in the

Gambling (Gambling Harm Reduction) Amendment Bill, and would allow communities to not just stem an increase in gambling harm, but to **reduce** it.

- 8.16. The eventual *Gambling (Gambling Harm Reduction) Amendment Act* requires territorial authorities to look at relocation policies in their initial policy reviews; the potential impact on gambling availability of a relocation policy is minimal at best, with some debate over whether such policies can, in fact, be harmful.
- 8.17. The Council accepts the Department may not wish to progress this policy in the form it took in the *Gambling (Gambling Harm Reduction) Amendment Bill*. The Department could instead empower local venue policies to reduce the number of class 4 gambling machines (“pokies”) in areas of high deprivation (8, 9 and 10 on the New Zealand Deprivation index), where evidence shows the negative impacts of gambling are likely to outweigh any positive aspects.
- 8.18. The role of territorial authorities’ gambling venue policies was addressed in the Council’s submission to the Ministry of Health in September 2015. The excerpts below also apply to the questions raised by the Department in this discussion document:

The [Ministry of Health] is overestimating what a territorial authority can achieve within the current legislative framework.

...The Gambling Act 2003 and the Racing Act 2003 constrain the scope and effect of gambling venue policies... and the Council considers that the effect of the gambling venue policies is too limited to achieve this objective [community input into local provision of gambling] for the following reasons:

- *The strongest policy available under the legislation, a total refusal of licences for new venues and machines (that is, a sinking lid policy), depends on existing venues losing, or not renewing, their licences. This means the policy takes considerable time to have any effect on the number of venues and machines in Auckland.*
- *SkyCity Casino will be allowed a total of 470 additional electronic gaming machines under the New Zealand International Convention Centre Act 2013, more than off-setting the decrease in electronic gaming machine numbers resulting from the Council’s sinking lid policy.*

...Regardless of Aucklanders’ aspirations for fewer electronic gaming machines, the Council is unable to give effect to a stronger policy than the current “sinking lid” policy, and the “sinking lid” is unlikely to achieve a total reduction in electronic gaming machines in Auckland in the short or medium term.

*Is requiring councils to review their venue policies every three years a good policy?
Should there be more or less time between reviews?*

- 8.19. The Council recommends that the review timeframe be extended, to align with other similar tools like bylaws and regulatory policies. For example, bylaws are reviewed five years after introduction and then every ten years after that, and local alcohol policies are reviewed every six years.
- 8.20. The Council has not seen evidence of any marked changes in the social impact of gambling, characteristics of gambling venues, or the amount of community grants available over a three-year period which might warrant such frequent evaluations.
- 8.21. The Council also notes that if such changes did become apparent, it retains the discretion to review any policy earlier than the statutory review period if the policy is no longer fit for purpose.
- 8.22. The Council would like to highlight that the review process required by the Act is not as labour-intensive as the discussion document states. Territorial authorities are not obliged to change their policies as a result of the triennial reviews. Further, as outlined in the Council's submission to the Ministry of Health:

...The legislation does not require territorial authorities to consult when conducting these reviews ...the cost of a full-scale public consultation (that is, not limited to relevant stakeholders) is likely to outweigh the benefits, when simply conducting a review of an existing policy of limited scope and effectiveness.

- 8.23. However, the review process, especially in a large area like Auckland, is still a significant piece of work to manage and to pay for, with costs in staff time, research and administration. As well as the costs to ratepayers, there is also a cost to taxpayers with frequent reviews; the Department is obliged to provide a number of reports and datasets to territorial authorities so they can conduct their reviews. The Council's experiences working with the Department's data team have been excellent, and we imagine that this level of service provision must be costly when multiplied across all territorial authorities conducting concurrent reviews.

How have local venue policies impacted on both problem gambling and the sustainability of community grants from class 4 gambling?

Statutory venue policy reviews best way to understand these impacts

- 8.24. The best way for the Department to understand how local venue policies have impacted problem gambling and community grants is to refer to territorial authorities' own venue policy reviews.
- 8.25. As outlined in the discussion document, most territorial authorities are reviewing their gambling venue policies at the moment, or will commence this year.

- 8.26. The *Gambling (Gambling Harm Reduction) Amendment Act 2013* introduced a requirement to look at the social impact of gambling in this round of reviews. To give effect to this when conducting their reviews, territorial authorities, including Auckland Council, have included¹:
- an examination of problem gambling in their district
 - an examination of gambling grants received in their district
 - whether any changes in either of these can be attributed to the venue policy.
- 8.27. Territorial authorities are better placed to conduct thorough policy analysis and gain insights, through policy reviews, than can be gained through a consultation exercise alone.

Initial findings from Auckland Council's venue policy review

- 8.28. Auckland Council has not yet completed its review of its venue policies. However, information relevant to the question posed in the discussion document has already been gathered and analysed as part of the review project.
- 8.29. Data sourced from the Ministry of Health shows that 5907 Aucklanders sought assistance for problem gambling in the 2014/2015 financial year, an increase of nearly 20 per cent since 2011/2012. Auckland now represents half of clients assisted nationally. This is significantly higher than the number expected, assuming the Auckland rate is consistent with the national average.
- 8.30. Data from the Department of Internal Affairs shows that total takings from non-casino machines are still increasing, despite a reduction in the number of machines. The Problem Gambling Foundation's database of grant recipients also shows an increase of nearly \$4 million in grants given to Auckland organisations in one year (between the 2013/2014 and 2014/2015 financial years).
- 8.31. As outlined above, local venue policies have limited scope to effect any change on the gambling landscape in Auckland. Even with a "sinking lid" on class 4 ("pokie") gambling in place, Auckland has experienced an increase in both problem gambling-associated presentations and community grants. Initial indications are that the local venue policy has not made significant impacts on either community grants or problem gambling.
- 8.32. However, the Council wishes to highlight that the counterfactual, the absence of a "sinking lid" policy, would further exacerbate issues with problem gambling.
- 8.33. Once the review is complete, the Council will be able to provide further insight, as required, into the question posed by the Department.

¹ Refer to the Ministry of Health's guide for territorial authorities in completing reviews of gambling venue policies, produced in association with the Department and Local Government New Zealand; and officers' discussions with colleagues across New Zealand and research on other territorial authorities' venue policies.

9. The Department's regulatory functions and the cost of regulating gambling

What influence do the Department's regulatory functions and operational policies have on the sustainability of funding to communities?

- 9.1. The Department exerts great influence by auditing societies and venues and ensuring all are operating as efficiently and transparently as the law requires. This means money is going to the community as it should.

Do you think the cost of regulating the class 4 sector is reasonable? Are there ways of effectively regulating the sector at less cost?

- 9.2. Whether the Department's costs are reasonable or as efficient as possible is a matter that the Department is best placed to answer. The Council notes that the Department made clear in last year's consultation on fees regulations that it has done all that it can to minimise its own operating costs and that its remaining costs are reasonable.
- 9.3. That said, public consultation is an expensive exercise. The Council recommends the Department streamline its engagement programme so that topics are batched, instead of running many separate, and sometimes concurrent, gambling consultations. The Council also recommends the Department allow sufficient time for legislative changes to bed in before consulting on their effectiveness and possible alternatives.
- 9.4. The Council also recommends that compliance activities be undertaken with more stringent results for non-compliance. The recent Mystery Shopper exercise found shockingly poor levels of compliance with the Act, which would be reasonably expected to result in enforcement action. Undertaking enforcement action when warranted ensures spend on compliance activities is an effective use of money.
- 9.5. The Council would also like more transparency around the educational approaches and graduated response model used in response to breaches of the Act.

What areas should the regulator focus on to reduce unwanted/illegal behaviour and problem gambling rates?

- 9.6. An effective way to reduce the cost of ensuring compliance is to reduce the incidence of non-compliance. The discussion document looks at reducing the number of societies; conducting enforcement activities to ensure societies operating illegally exit the sector would result in compliance, education and enforcement cost-savings to the Department. This is discussed further in section 11, "non-club class 4 gambling sector", below.
- 9.7. The Council references its January 2015 submission to the Government Administration Committee:

The Council considers that the intent of reducing costs for operators to increase net profits is commendable, however the Council does not agree that fewer checks on corporate societies' operations is the appropriate way to achieve this.

10. Problem gambling

What is your experience of any changes in harmful gambling behaviour over time?

- 10.1. The Council considers that the Ministry of Health's research in this area, funded by the problem gambling levy, is the best source of information on this topic.
- 10.2. The data shows that there has not been any significant change in harmful gambling behaviour over time. To quote the Department's December 2014 press release, "whilst overall participation in gambling by New Zealanders has reduced, Ministry of Health figures show that problem gambling rates have stayed much the same."

What is your view on the class 4 sector's approach to problem gambling?

- 10.3. While there are certainly some in the sector taking their responsibilities very seriously, as a whole, it appears that the approach is not working. This is demonstrated by:
 - a) very high failure rates in the Mystery Shopper assessment of venues' attitudes to gamblers displaying problematic behaviour
 - b) the evidence, referenced in the discussion document, that approximately half of gaming machine profit ("pokie" takings) is from problem gamblers
 - c) the fact that problem gambling rates are staying the same, despite the overall number of gamblers falling.

Do you have suggestions for how problem gambling could be reduced or better managed, i.e. how can both the legislation and practice be improved?

- 10.4. The Council considers that a change in approach to managing instances of non-compliance in the sector, from an educational focus to an enforcement focus, would result in real improvements in the lives of people that are affected by problem gambling.
- 10.5. The Council notes that other compliance activity in sectors with a potential for addiction and harm is not always undertaken by those responsible for setting policy. Creating a division between the policy and operational aspects of the Department, or delegating enforcement activities to a different part of the government, could have positive impacts on compliance.

11. Non-club class 4 gambling sector

Do you think there are an optimum number of non-club societies, venues and machines that would maximise sustainable funds to the community, while minimising harm from gambling? What would this be?

- 11.1. The Council considers that societies can indeed operate more efficiently than at present, and reducing the number of societies has the potential to increase efficiency in the sector.
- 11.2. The Council discussed this in its submission to the Commerce Committee in July 2012:

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... The fact that less scrupulous trusts have operated, and continue to operate, within the current framework indicates that change is needed.

- 11.3. The Council also considers that there are currently too many venues and machines in Auckland, especially in areas of high deprivation.

What criteria do you think should be considered to determine the optimum number of non-club societies?

- 11.4. The Council considers that the criteria used to determine the fitness of societies to continue to operate is more important than the exact number of societies.
- 11.5. The key criterion for determining fitness to operate a society is whether returns to the community are maximised, which is the stated purpose of class 4 ("pokie") gambling. Those societies able to achieve higher returns to the community should remain in operation; those that are not should exit the sector and allow more efficient societies to operate their venues. Intervention to support societies that are underperforming is detrimental to the purpose of the Act.
- 11.6. The other key criterion is compliance with legislation. If societies are not operating within the bounds of the law, then they are not fit to continue operating.
- 11.7. The Council is concerned that opportunities to create efficiency gains to date have been lost:
- cancelling scheduled increases to the minimum rate of return has prevented the least efficient societies either managing their operations more efficiently, or else exiting the sector altogether, so their venues can be taken over by more effective societies (discussed above at section 4, "Class 4 funding to communities: minimum rate of return").
 - a stronger focus on enforcement over education would mean that those societies operating illegally would no longer exist, and a reduction in the number of societies would have been achieved.

What are the advantages and disadvantages of a larger non-club sector versus a smaller non-club sector?

- 11.8. The Council sees merit in the argument that a smaller number of societies reduces the administrative burden on community organisations applying to multiple societies for grants.
- 11.9. The advantage of fewer machines and venues is decreased availability of class 4 (“pokie”) gambling, and an associated decrease in problem gambling uptake.

12. Non-club venues and their relationships with non-club societies

Do you think the relationship between venues and societies can create problems? If so, what problems and why?

Is competition for venues between societies desirable? Why?

- 12.1. As outlined in its July 2012 submission to the Commerce Committee, the Council considers the relationship between venues and societies to be inherently problematic:

a fundamental flaw in the Act is the ability of venue owners to choose which pokie trust with which they sign a venue agreement... :

- (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.*

13. Online gambling

Do you think the current policy settings for online gambling are fit-for-purpose?

Do you think other forms of gambling should be available online in New Zealand? Why/why not?

- 13.1. The Council recognises that online platforms are becoming more and more prominent.
- 13.2. However, the Council is concerned about the emergence of online gambling. It is strongly opposed to increasing opportunities to gamble in forms that:
- are easily accessible, especially by minors
 - are available at all times of the day
 - are addictive
 - entail few or no checks on players.
- 13.3. Most forms of online gambling, especially from overseas providers, fall into this category. A proliferation in such websites has the potential to be devastating, especially to the most vulnerable populations.
- 13.4. Auckland Council notes that many of Auckland's most deprived areas also have the highest youth populations, so the potential for negative impacts is exacerbated.
- 13.5. The Council understands that the Department's preference in managing online betting, as expressed in its May 2016 Racing Act consultation, is to deregulate the sector, rather than introduce new regulations on overseas betting options. The Council is concerned that this approach could set a precedent for managing other forms of online gambling, and urges the Department to place weight on the clear potential for harm when setting policy on online gambling platforms.

14. Attachments

A	Letter to Minister Dunne regarding the definition of local areas when determining the distribution of class 4 gambling proceeds within Auckland, 18 August 2014
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