



REVIEW OF THE CLASS 4 GAMBLING AND TAB VENUE POLICY

STATEMENT OF PROPOSAL

INTRODUCTION

1. This Statement of Proposal is prepared in accordance with section 83(1)(a) of the Local Government Act 2002 (LGA), in relation to the review of the Class 4 Gambling and TAB Venue Policy (the Policy) previously known as the Class 4 and TAB Gambling Venue Policy.
2. The Queenstown Lakes District Council (Council) is seeking public feedback on its proposal to make minor amendments to the current Policy.
3. Once the submission period closes, Council will conduct a hearing for anyone who wishes to speak in support of their submissions.

LEGISLATIVE FRAME WORK

4. Under section 102 of the Gambling Act 2023 (GA) and section 97 of the Racing Industry Act 2020 (RA), Council is required to adopt a class 4 gaming and TAB venue policy which must be reviewed every three years.
5. The Policy was last reviewed in 2018.
6. Sections 102(6) of the GA and 97(5) of the RA states that a policy does not cease to have effect because it is due for review or being reviewed.
7. Sections 102(2) of the GA and 97(2) of the RA states that a special consultative procedure be carried out should the Policy be amended or replaced.

PROPOSAL

8. Council is undertaking its statutory requirement to review its Class 4 Gambling and TAB Venue Policy.
9. Council recommends that amendments to the current Policy be made by adopting the proposed Class 4 Gambling and TAB Venue Policy.
10. This Statement of Proposal has been prepared in accordance with the requirements of section 83 of the LGA.

REASON FOR PROPOSAL

Background

11. The GA classifies gambling on the following basis:
 - a. The amount of money spent; and
 - b. The risk of problem gambling associated with an activity.

12. Classes of gambling range from Class 1, representing low-stake, low-risk gambling, to Class 4, which represents high-risk, high-turnover gambling.
13. Class 4 gambling does not include casinos but relates to Electronic Gaming Machines (EGM) otherwise known as “pokies” in clubs or pubs.
14. EGM are owned and operated by “Societies”. These are non-commercial organisations that raise funds for the community or “authorised” purposes. They are also referred to as “Charitable Trusts”.
15. Societies enter into agreement with the venue operator to place EGMs in a venue, in return for a commission payment based on weekly turnover.
16. A society may operate a club. There are currently no clubs operated by a society in the District.
17. A TAB venue is owned and operated by the New Zealand Racing Board (NZRB) and the main business is providing race and sport betting. There are also no stand-alone TAB venues in the district.

Current Gambling Policy

18. The Policy generally covers all of the relevant considerations. However, additional clauses in the Policy are not required by either the GA or RA, and include:
 - a. **Information Disclosure:** The Policy requires societies to disclose information relating to financial records regarding net expenditure (GMP), site fees and grants issued to local community groups, to Council every six months.
 - b. **Application process:** the evidence required for an application, and the requirement for fees to be paid.
 - c. **Public Notice Provisions:** including requirements to notify the public of any intention to make an application requiring 21 days for objections to be made.
 - d. **Public Objections:** Process

Proposed Changes to the Policy

19. The following changes are sought:
 - a. Remove information disclosure for societies.
 - b. Remove the requirement to publicly notify.

Information Disclosure

20. This requirement has not been actively monitored by Council and there is no record of this information ever being requested or received. The GA requires information to be provided to the

Department of Internal Affairs (DIA), and it is accessible through the DIA, Problem Gambling Foundation Group, and by the Societies themselves. It is not a requirement under the GA for Council to request or to hold this information

21. As such, the requirement should be removed from the Policy. The requirement creates an unnecessary and inefficient administrative burden, is not a mandatory statutory requirement, and the information is readily available from reliable sources.

Public Notification

22. Neither the GA nor the RA require an application to be publicly notified. Council is required to act in accordance with the statutory requirements, it is not required to go above and beyond the requirements in its Policy.

23. A Territorial Authority is required to provide a decision within 30 working days from the date of an application: *Sections 100(3) of the GA and 95(2) of the RA.*

24. If it were required to give Public Notice of all applications Council would be unable to meet the statutory (mandatory) 30 working day timeframe.

25. The following internal administrative timeframes could not be met:

- Public notice could not be advertised in a reasonable timeframe in order to administer a timely decision;
- Objections arising from submissions could not be heard within this timeframe, and officers' reports could not be presented in time for a hearing, nor could a decision be delivered on the application within the statutory timeframe.
- Other administrative concerns include:
 - Reports to council must be submitted three weeks before a scheduled meeting, and Council officers would not have sufficient time to do so and provide a decision within the statutory timeframe.
 - Community and Services Committee are scheduled to meet every six weeks and an application would not be presented to the Committee in time to make a decision within the statutory timeframe.
 - While an emergency committee could be called, it would be a further administrative burden to do so, at great cost, for no benefit, particularly when the Act does not require it.

26. Community involvement is more appropriate at the time the Policy is amended, in accordance with the purpose and intent of the Act (and in accordance with the principles of s 83 of the Local Government Act 2002), where public consultation is mandatory: *Section 102(2) of GA.*

27. As public notice of an application is not required under the GA and RA, Council's principle objective, when processing a TA consent application, is in meeting its statutory obligations under the Act/s: *sections 100(3) of the GA and 95(2) of the RA.*

55. On balance, it is recommended that the requirement for public notice be removed from the policy. This will ensure the council is able to meet its statutory obligation while ensuring community voice can still be captured through any consultation on the policy review and where public consultation is mandatory through section 102(2) of the GA.

Additional Considerations

CAP on EGMs

28. Territorial Authorities may choose to adopt a 'cap' on the number of EGM or venues within their district. This means Council can impose maximum number of EGM or venues in the Policy. The maximum number may be the same, more, or less than the number that it is currently operating.
29. A maximum number of EGM or venues (CAP) may be applied to the whole district, specific zones, or by ward.
30. Alternatively, Territorial Authorities may decide not to consent to any new venues being established in their area (Sinking Lid Policy).
31. A sinking lid policy means that once a class 4 gambling venue closes, the council will not issue any other society consent to replace that venue.
32. The number of EGMs and Class 4 Venues has reduced in the District. As such, there is no need for the Policy to require any further restrictions on the number of EGMs or Class 4 Venues.

Application Fee

33. The GA and RA do not specifically provide for Council to charge an administration fee for the processing of applications under the Acts. Without such explicit provisions, Council cannot charge the Applicant what are fair and reasonable costs to administer the application. In order to appropriately apportion reasonable costs, Council must undertake a Special Consultative Procedure (SCP) under the LGA.
34. To date, Council has generally required an application fee (**fee**) of \$500 to be paid by an applicant. The Fee reasonably covers the administrative costs incurred by Council in complying with its obligations under the GA and RA and complies with the principles for charging fees under sections 82 and 83 of LGA.
35. On that basis, a resolution is required to formally to include the charging of a fee for applications in the SPC procedure in accordance with ss 82 and 83 of the LGA.

OPTIONS

36. The following options are considered reasonably practicable for assessing the matter as required by section 77 of the Local Government Act 2002:

37. **Option 1:** that Council endorse the draft Class 4 Gambling and TAB Venue Policy 2023 for consultation following the Special Consultative Procedure. Note that it is open to Council to recommend changes to the draft bylaw as part of this option.

Advantages:

- a. Council will meet its legislative requirement to review these policies every three years.
- b. Administrative inefficiencies will be minimised resulting in Societies being permitted to operate gaming machines at new venues and relocate gaming machines within the parameters set out in the Policy, without unnecessary bureaucracy.
- c. The potential for administrative duplication will cease by removing the requirement for Societies to provide information to Council as well as to the DIA. The current regime has the potential to increase costs to Council and tie up valuable human resources in administering the process for no apparent benefits.
- d. Funding for local community groups will remain assured, with an opportunity for growth in funding to benefit other community groups.
- e. Council will be able to meet its statutory timeframe requirements to deliver decisions on Applications within 30 working days.
- f. Public notification and the submissions process will ensure that the Policy meets the criteria under the GA and RA and provides for community involvement.
- g. Council will be able to recoup reasonable administrative costs through application fees.

Disadvantages:

- a. There could be an increase in the number of gaming machines in the district which could potentially increase gambling related harm in the District.
- b. People seeking intervention for problem gambling could rise, without adequate treatment for problem gambling available in the District.

38. **Option 2:** that Council not endorse the draft Class 4 Gambling and TAB Venue Policy 2023 for consultation following the Special Consultative Procedure.

Advantages:

- a. Further resource is not required to progress this work and the existing policy continues to have effect.

Disadvantages:

- a. The Council will be in breach of its legislative obligations to review these policies every three years.
- b. There could be an increase in the number of gaming machines in the district which could potentially increase gambling related harm in the District.

- c. The current policy is not updated meaning that:
 - i. Council is less likely to meet its legislative obligations for statutory timelines in delivering a decision on applications;
 - ii. Council will not have appropriate legal basis for charging a reasonable administrative fee for applications.
 - iii. Unnecessary administrative burdens and delays in processing could continue to apply to Societies and Others who apply for Venue 4 Gambling Licences.

39. **Option 1** is recommended for the following reasons:

Advantages:

- a. Council is required to review these policies every three years and the current review ensures they are up-to-date and fit-for-purpose.
- b. The restrictions under the current policy appear to be effective as there has not been any successful application for a new gaming venue in ten years, with only one successful relocation application.
- c. Even without a Cap or Sinking Lid Policy, there is a natural reduction in the number of venues in the district resulting in less opportunity for the community to take part in gambling.
- d. The policy would allow applications to be made to establish new venues which in turn could provide additional funding to the community.
- e. Council's administrative burdens and costs would be reduced by:
 - i. Removing the need to hold information on file where it has already been provided to the appropriate statutory body;
 - ii. Removing the need to publicly notify each application where it is not statutorily obliged to do so;
 - iii. Fewer Officers will be required to administer the Policy.
- f. Application Fees can be charged back to the applicants, covering Council's reasonable administrative costs.

INSPECTION OF DOCUMENTS AND OBTAINING COPIES

40. Copies of this Statement of Proposal and the proposed Class 4 Gambling and TAB Venue Policy can be inspected at the following location or a copy obtained at no cost from:

- At any Council office in the district: 10 Gorge Road, Queenstown or 74 Shotover Street, Queenstown, or 47 Ardmore Street, Wānaka
- Any library within the Queenstown Lakes District
- The Consultation page on QLDC's website: <https://letstalk.qldc.govt.nz/>

RIGHT TO MAKE A SUBMISSION AND BE HEARD

41. Any person or organisation has a right to be heard in regard to this Proposal and the Council encourages everyone with an interest to do so. Submissions should be directed toward matters that are within the scope of the Proposal.
42. The Council would prefer that all parties intending to make a submission:
 - go to the Queenstown Lakes District Council website: www.qldc.govt.nz or
 - post their submission to: the Regulatory Department, Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348.
43. Submissions will be open from 3 April 2023 and close 5 May 2023
44. The Council will give equal consideration to written and oral submissions.
45. The Council will permit parties to make oral submissions (without prior written material) or to make a late submission, only where it considers that special circumstances apply.
46. Every submission made to the Council will be acknowledged in accordance with the LGA, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.
47. Section 82 of the LGA sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the law.

MAKING AN EFFECTIVE SUBMISSION

48. Written submissions can take any form (e.g. email or letter) but we recommend your submission be made on a standard submission form available from Council. An effective submission references the clause(s) of the Draft bylaw you wish to submit on, states why the clause is supported or not supported, and states what change to the clause is sought.
49. Submissions on matters outside the scope of the Proposal cannot be considered by the Hearings Panel.

TIMETABLE FOR CONSULTATION	
Action	Date
Council resolves to undertake public consultation regarding the Proposal	Thursday 23 March 2023
Advertisement in:	Otago Daily Times – Saturday 1 April 2023 Mountain Scene – Thursday 6 April 2023 Wānaka Sun – Friday 7 April 2023
Submissions open	Monday 3 April 2023
Submissions close	Friday 5 May 2023
Submissions heard by subcommittee of Councillors	June 2023 (exact date to be advised)
Council considers outcome of consultation process and whether to make decisions on the Proposal	Thursday 10 August 2023
Public notice of final decision	Friday 11 August 2023

APPENDIX 1 – Proposed Class 4 Gambling and TAB Venue Policy

APPENDIX 2 – Current Class 4 and TAB Gambling Venue Policy