

Mayor and Councillors
COUNCIL

11 JUNE 2015

Meeting Status: **Public**

Purpose of Report: For Decision

**APPLICATION FOR TERRITORIAL AUTHORITY CONSENT
FOR ADDITIONAL CLASS 4 GAMING MACHINES AT AN
EXISTING VENUE**

PURPOSE OF REPORT

- 1 Kapiti Club Incorporated has applied for territorial authority consent pursuant to section 99 of the Gambling Act 2003 and the Kapiti Coast District Council Class 4 Gambling Policy 2011, to operate additional Class 4 gaming machines at their existing venue located at 32 Marine Parade, Paraparaumu Beach (refer attachment 1).
- 2 Any incorporated society or company that wants to establish a new gaming machine venue, or apply for a licence to operate additional gaming machines must apply for a licence with the Department of Internal Affairs (DIA).
- 3 A pre-requisite to apply for the licence is that the applicant must show that they have received territorial authority (TA) consent for the new venue or additional machines.
- 4 A territorial authority, when making a decision on whether to give TA consent for additional gaming machines, should consider its Gambling Machine Policy.

DELEGATION

- 5 Council has the authority to consider and determine this matter.

BACKGROUND

The situation

- 6 The Kapiti Club Incorporated (applicant) is currently considering merging with the Paraparaumu Memorial RSA Incorporated, and if that merge occurs the applicant wants to bring in some of the gaming machines from the RSA which will increase the number of gaming machines at the venue by 9 bringing the total gaming machines at the venue to 24.
- 7 Additionally, if the merge goes ahead the RSA will be relinquishing their gaming machine licence with DIA and will not be operating any gaming machines. The RSA currently has a licence for 18 machines and 9 of these will be relinquished.
- 8 If the proposed merger does not go ahead, the Kapiti Club will not go ahead in seeking a licence for additional gaming machines. However if this TA consent were granted it should be granted only on the condition that the merger of the Clubs goes ahead.

The Gambling Act 2003 (the Act)

- 9 The Council does not regulate or enforce the requirements of the Gambling Act 2003 in any way and has two roles under the legislation:
- to consider and determine an application for TA consent; and
 - to adopt a gambling policy using the special consultative procedure and to review that policy every 3 years.
- 10 Section 100 of the Act requires that a TA, when considering and determining an application for Territorial Authority consent, must do so in accordance with its class 4 gambling policy; and then either -
- grant a consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue (but with no other condition); or
 - not grant a consent.
- 11 However, when determining an application for additional gaming machines that may be operated at a venue, the Council may not include a condition specifying a maximum number of machines that is fewer than what is currently being operated at the venue.
- 12 Section 101 of the Act describes what must be addressed and considered when developing a Gambling Policy.

The Kapiti Coast District Council Class 4 Gambling Policy 2011(the Policy)

- 13 The current Policy became active in June 2011 (refer attachment 2) and was due for review in June 2014, however this review has not been started. The Act states that a review of the Policy must be undertaken every three years but section 102 (6) of the Act states that the policy does not cease to have effect because it is due for review or being reviewed.
- 14 The effect of the Policy not being current means the Council does not have the benefit of considering the latest social impact assessment on the effects of gambling in the district, nor is it able to consider the current ratio of gaming machines by population (which may have changed) when making its decision for a TA consent.
- 15 It is important to note that when considering this application the Council focuses on the Policy as adopted in 2011 even though there may be some aspects of the Policy that might be outdated or due for review.
- 16 The review of the Policy is a separate task that is currently being considered by the Strategy and Planning Group. A recent stocktake by this Group has identified 92 council policies and strategies some of which require review due to statutory timeframes. A full evaluation and recommended prioritisation and work program of the policies and strategies is currently being undertaken. The results of this evaluation will be reported to council following consideration by SLT to determine the Councils work program over the next 3 to 5 years.

ISSUES AND OPTIONS

- 17 Section 4.4 of the Policy requires the Council to consider the application relative to the objectives outlined in section 3 of the Policy which are:

1. to minimise gambling harm to Kāpiti Coast communities caused by Class 4 gambling;
2. to control the growth of Class 4 gambling in the Kāpiti Coast District;
3. to ensure Class 4 gambling venues are appropriately located;
4. to ensure that the Kāpiti Coast District Council and its communities have influence over the provision of new Class 4 gambling venues in the Kāpiti Coast District;
5. to control the number of Class 4 gaming machines in the Kāpiti Coast District;
6. to redistribute existing Class 4 venues and gaming machines in the District so that they are more evenly spread amongst the adult ward population and closer to the district average (measured at June 2010).

Table 1: Class 4 Gaming Machines permitted in each ward (figures current at 2010 and as set by the Policy in 2011)

| Ward | Population over 18 yrs | Current no. gaming machines in 2010 | Permitted no. of gaming machines in each ward | Approx. change required | Gaming machines to adults |
|---------------------|------------------------|-------------------------------------|---|-------------------------|---------------------------|
| Paekariki - Raumati | 7,290 | 27 | 45 | +18 | 1:162 |
| Paraparaumu | 14,353 | 95 | 88 | -6 | 1:162 |
| Waikanae | 8,505 | 30 | 52 | +22 | 1:162 |
| Otaki | 6,847 | 76 | 42 | -34 | 1:162 |
| Total District | 36,910 | 228 | 228 | | 1:162 |

Table 2: Table 1 above adjusted to reflect the current number of gaming machines in the district

| Ward | Current no. gaming machines in 2015 |
|---------------------|-------------------------------------|
| Paekariki - Raumati | 27 |
| Paraparaumu | 95 |
| Waikanae | 36 |
| Otaki | 61 |
| Total District | 219 |

- *there has been a reduction in gaming machines in the Otaki ward since the Policy was adopted, one venue closed that had operated 15 machines and another venue increased its machines by 4 to the maximum allowable limit of 17 as set by DIA*
- *there has been an increase in machines in the Waikanae ward, which occurred when a venue increased its machines by 6 up to the maximum allowable limit of 18 as set by DIA*
- *note that where gaming machines have been increased, these venues were allowed to do so under the Gambling Act without TA consent, as they reserved the right to do this when the Gambling Act was reviewed in 2003*
- *refer attachment 3 for the current statistics from DIA.*

Objective 1: Minimise gambling harm from Class 4 gambling

- 18 The premises operates a Gaming Policy as developed by Clubs New Zealand Incorporated and required by DIA which outlines the host responsibility practices that will be undertaken by the Club to minimise problem gambling and harm to members, guests and staff.
- 19 It should be noted that the applicant is a licensed club that is only open to members and their guests, and visitors from affiliated clubs. The general public are not encouraged to come to the venue for the purpose of gambling.
- 20 The club does not advertise that they are a gaming venue outside the premises. There is pull-up banner located inside the premises which faces out the ground floor window advertising the activities and services of the club. Gaming machines are advertised here as one of 15 activities of the club but that activity is given the same emphasis as all of the other activities on the advertising.
- 21 A plan of the proposed gaming machine area has been submitted with the application. The area will be restricted to those 18 years and over and will be separated from the rest of the venue by a wall. The entry to the gaming area can be seen from some of the pool table area, bar area and some of the dining areas but any view of actual gaming machines will minimal with the tea and coffee making area being placed at the entrance.

Objective 2: Control the growth of Class 4 gambling

- 22 This application does not seek to grow the potential for Class 4 gambling in the district, if the application is approved there will be a reduction in gaming machines in the ward and district.

Objective 3: To ensure that venues are appropriately located

- 23 The existing venue is situated on land zoned commercial under the operative Kapiti Coast District Plan 1999. Resource consent was not required for the land use; it is a permitted activity.
- 24 The premises is located on the corner of Maclean Street and Marine Parade at Paraparaumu Beach and are accessed from the main entrance on Marine Parade.
- 25 The locality is a popular commercial retail hub, with neighbouring activities and uses including businesses, retail shops, a service station, two taverns, many

restaurants, cafes and takeaway food premises as well as apartment style accommodation. Opposite the premises is the recreation reserve and the beach.

- 26 The only potentially sensitive use or activity in the immediate area is the recreation reserve opposite. This area contains a skate park and children's playground, and has main access points to the beach.
- 27 The Council has no recorded incidents of adverse issues to date (in relation to the impacts of the alcohol licensed premises or the gambling venue on the sensitive use), including reports from the Police.
- 28 The operation of the existing licensed club is compatible with the surrounding locality.

Objective 4: To ensure the Council and its communities have influence over the provision of new Class 4 gambling venues

- 29 This application does not seek to establish a new gambling venue, in fact if the merger of the clubs does occur then there will be one less gambling venue operating in the district. There are currently 14 gambling venues operating in the district, if the clubs merge there will be 13 gambling venues. Section 5.1 of the Policy requires that the number of gambling venues in the district is capped at a maximum of 15.

Objective 5: To control the number of Class 4 gaming machines in the district

- 30 This application does seek permission for additional machines at an existing venue.
- 31 Section 95 of the Act allows a club that is merging with another club to apply for Ministerial approval for a licence to operate up to 30 gaming machines (normally all existing venues are limited to a maximum of 18). The applicant is requesting a licence for 24 gaming machines if the clubs merge.
- 32 If this application were to be approved there would be a reduction of 9 gaming machines in the district bringing the total gaming machines currently operating down from 219 to 210, which meets the objectives of the Policy.

Objective 6: to redistribute existing Class 4 venues and gaming machines so that they are more evenly spread amongst the ward population and closer to the district average

- 33 There are currently 6 gambling venues in the Paraparaumu Ward with two venues located in the Paraparaumu Beach commercial area, these are:
 - Kapiti Club, operating 15 gaming machines;
 - Pinetree Arms tavern, operating 18 gaming machines;
 - Jolly Sandbar tavern, operating 18 gaming machines;
 - Paraparaumu Memorial RSA, operating 18 gaming machines;
 - The Cock tavern, operating 18 gaming machines; and
 - Golden Coast Chartered Club, operating 8 gaming machines.

- 34 If this application were to be approved, there would be a reduction of gaming machines in the Paraparaumu Ward which is currently over represented with gaming machines (see Table 1), bringing the total gaming machines down from 95 to 86.
- 35 This would achieve and exceed the aims of this objective of the Policy given that the total number of gaming machines operating in the Paraparaumu ward would then be below the ward cap of 88 machines.
- 36 Additionally, if this application were to be approved there would be one less gambling venue in the district, bringing the total gambling venues down from 14 to 13.

Option 1

- 37 Give Territorial Authority consent for the Kapiti Club Incorporated to operate an additional 9 gaming machines (bringing the total to 24) conditional on the club merging with the Paraparaumu Memorial RSA Incorporated.
- This option does achieve the aims of the Policy by reducing the number of gaming machines in the ward by 9 machines and thereby reducing the number of gaming machines to under the ward cap.
 - This option means that the Club will increase the total gaming machines at the venue, which some may view as increasing the potential for gambling related harm to members and their guests.

Option 2

- 38 Refuse to give Territorial Authority consent for the Kapiti Club Incorporated to operate a further 9 gaming machines (leaving the total gaming machines at the venue at the current level of 15).
- This option will also achieve some of the aims of the Policy as outlined above.
 - This option may mean the Clubs consider that that the potential loss in gaming machine revenue means the merger is not a viable option for them.

Staff recommendation

- 39 It is recommended that the Council considers giving TA consent to this application, given that the application meets the objectives of the Kāpiti Coast District Council Gambling Policy 2011.

CONSIDERATIONS

Policy considerations

- 40 The objectives of the Kāpiti Coast District Council Class 4 Gambling Policy 2011 must be considered by the Council when making a decision on this matter.

Legal considerations

- 41 There are no legal considerations to consider with this application except that the Act requires that a decision is made on this matter within 30 days of receipt of the application.

Financial considerations

- 42 There are no financial considerations for the Council in relation to this application.

Tāngata whenua considerations

- 43 Tangata whenua were consulted during special consultative procedure when drafting the policy in 2010.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 44 This matter has a low level of significance under Council policy.

Consultation already undertaken

- 45 Consultation occurs when the Council reviews the Gambling Policy as the special consultative procedure must be used.

Engagement planning

- 46 An engagement plan is not needed to implement this decision.

Publicity

- 47 A communications plan or strategy is not required in relation to this matter.

RECOMMENDATIONS

Option One

- 48 That the Council gives Territorial Authority consent to the application by Kapiti Club Incorporated to operate additional gaming machines at the venue to a maximum of 24 gaming machines, subject to the Kapiti Club Incorporated merging with the Paraparaumu Memorial RSA Incorporated.

Option Two

- 49 That the Council declines to give Territorial Authority consent to the application by Kapiti Club Incorporated to operate additional gaming machines at the venue, leaving the maximum number of gaming machines at the venue at the current level of 15.

| Report prepared by | Approved for submission | Approved for submission |
|---|--|--|
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ATTACHMENTS

- 1 Application
- 2 Kāpiti Coast District Council Class 4 Gambling Policy 2011
- 3 Current gaming machine statistics from DIA