

## QLDC Council

29 June 2023

### Report for Agenda Item | Rīpoata moto e Rāraki take [3]

**Department: Assurance, Finance & Risk**

**Title | Taitara :** Class 4 Gambling and TAB Venue Policy Review

#### **Purpose of the Report | Te Take mō te Pūroko**

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The purpose of this report is to address and rectify two errors that were in the draft Class 4 Gambling and TAB Venue policy (“Draft Policy”) presented to Council on 23 March 2023 as part of the Council’s obligation to review the policy.

The errors were discovered after the resolutions had been passed and the consultation period closed. The Statement of Proposal (“SOP”) correctly recorded the changes sought to the existing policy and did not contain the errors. That means that the Draft Policy and SOP were not aligned. Further, the errors do not support the key objectives of the Class 4 Gambling and TAB Venue Policy (“Existing Policy”).

This has been addressed by correcting the Draft Policy so that it now reflects only the changes intended in the SOP and excludes the unintended clauses.

Council officers now seek new resolutions from the Council to approve the correct Draft Policy.

#### **Executive Summary | Whakarāpopototaka Matua**

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Section 101 of the Gambling Act 2003 (GA) and section 96 of the Racing Industry Act 2020 (RA) requires a territorial authority to adopt a class 4 venue and TAB (Totalisator Agency Board) venue policy. Once a policy is adopted, it is required to be reviewed every three years.

If Council endorses the draft policy and adopts the statement of proposal for consultation, staff will undertake a consultation process in accordance with QLDC’s Special Consultative Procedure from 3 July 2023 to 4 August 2023.

#### **Recommendation | Kā Tūtohuka**

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That the Council:

1. **Note** the contents of this report;
2. **Note** the following resolution made at the ordinary meeting held on 23 March 2023:
  - a. Appoint a panel of three Councillors Bartlett, Guy and Wong to consider submissions and make a recommendation to the Council on adoption of the policy;

3. **Adopt** the amended Statement of Proposal for consultation from 3 July 2023 to 4 August 2023 in accordance with the Special Consultative Procedure outlined in sections 83 and 86 of the Local Government Act 2002; and
4. **Authorise** the public notification of the Statement of Proposal as part of a Special Consultative Procedure for community feedback.

**Prepared by:**



**Name:** Sharon Dinneen  
**Title:** Alcohol Licensing Inspector  
8 June 2023

**Reviewed and Authorised by:**



**Name:** Brendan Peet  
**Title:** Acting GM Assurance, Finance and Risk  
8 June 2023

## **Analysis and Advice | Tatāritaka me kā Tohutohu**

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1. The errors in the Draft Policy (Attachment A) are as follows:

### **Section 5 – Club Venues**

- The Draft Policy included a clause that enabled two or more clubs (owned and operated by Societies) that have class 4 venue licences to merge.
- The Existing Policy does not permit two or more clubs that hold class 4 venue licences to merge, the Draft Policy does not intend any changes to the Existing Policy in respect of the merger of Class 4 Venue mergers.
- Accordingly, the drafting error is not consistent with the Existing Policy, was not intended to be the focus of the review put to Council and should not have been incorporated into the Draft Policy.

### **Section 4.4 – Maximum Permitted Electronic Gaming Machines (EGM)**

- The Draft Policy erroneously enables an increase in the number of EGMs to 18 where a Class 4 Venue held a licence on or before 17 October 2001.
  - The Existing Policy does not provide for this, and the Draft Policy did not intentionally seek a change to increase the number of EGMs permitted in a venue, to exceed nine EGMs.
  - The Draft Policy does not intend to allow for up to 18 EGMs.
2. Public consultation on the Draft Policy took place after Council adopted the SOP which only sought the following changes:
    - a. Remove information disclosure for societies.
    - b. Remove the requirement to publicly notify.
  3. These errors have been removed from the updated Draft Policy and SOP which are **attached** to this report as Attachments B and C.

### **Submissions**

4. Council received ten submissions on the Draft Policy. Two of those submitters referenced and opposed the club mergers at Clause 5. Otherwise, there was no interest in the “errors”. The period for submissions has closed.
5. The amended Draft Policy will need to be re-notified with the purpose for the amended draft made clear. For clarity, all submissions received so far will remain on file. Council will welcome any submissions but only on the corrections to the Draft Policy.

## OPTIONS

**Option 1:** Council adopt the amended Statement of Proposal.

### *Advantages:*

- The errors were noted before the Draft Policy was adopted; Gaming Societies are not given the opportunity to increase EGMs at a venue.
- Limiting the number of EGMs in the district aligns with the Policy's objectives.
- Council is meeting its legislative requirements to correctly inform the public of these errors and gives opportunity to provide feedback.

### *Disadvantages:*

- The public only have the opportunity to provide feedback on the removal of the two errors. They do not have a second opportunity to submit on the changes proposed to the draft Policy during the original consultation period which was held from 24 March 2023 to 30 April 2023.
- There could be an increase in the number of gaming machines in the district which could potentially increase gambling related harm in the District.

6. **Option 1** is the only reasonably practicable option as the original Draft Policy does not align with the previous SOP, therefore the Policy cannot be adopted. The Council is required by law to have a class 4 venue and TAB (Totalisator Agency Board) venue policy in place. Further, adoption of **Option 1** means:
  - a. Council will have the opportunity to rectify two errors in the draft Policy.
  - b. The public will be fully informed of the proposed changes to the currently Policy.
  - c. The Council will meet the requirement to review this Policy every three years and the current review will ensure an up-to-date and fit-for-purpose Policy.

## Next steps

7. If endorsed by Council, the Draft Policy will go out for public consultation from 3 July 2023 to 4 August 2023.
8. It is intended that the written submissions received will be presented at a hearing on this matter to take place in September 2023, with the actual date yet to be confirmed. Those who would like to present their submission verbally will have an opportunity to speak and submissions received during the first consultation period will also be heard at this time.
9. Staff will present the Draft Policy to Council for consideration and adoption at its 12 October 2023 meeting. Subject to its adoption, the new Policy will come into effect the following day.

## **Consultation Process | Hātepe Matapaki**

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### **Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka**

10. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement policy because class 4 gambling contributes negatively to harm caused to the community but also increases the potential amount of funding available.
11. This report seeks the Council's approval to undertake a public Consultation process as required by section 102 of the Gambling Act 2003 and 97 of the Racing Industry Act 2020 on the changes proposed to the Class 4 Gambling and TAB Venue policy. The consultation process will comply with the requirements of section 83 of the Local Government Act 2002.

### **Māori Consultation | Iwi Rūnaka**

12. The Council has not specifically consulted with iwi on this matter.

## **Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka**

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13. This matter relates to the Community & Wellbeing risk category. It is associated with RISK00006 Ineffective Management of Social Nuisance Issues within the QLDC Risk Register. This risk has been assessed as having moderate inherent risk rating.
14. The approval of the recommended option will support the Council by allowing it to retain the risk at its current level. This can be achieved by ensuring the proposed policy complies with legislative requirements under both the Gambling Act 2003 and the Racing Industry Act 2020.

## **Financial Implications | Kā Riteka ā-Pūtea**

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15. There are no financial implications to Council of this decision.

## **Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera**

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16. The following Council policies, strategies and bylaws were considered:
  - 'Thriving People', 'Pride in Sharing our Places' and 'Opportunities for All' principles of the Vision Beyond 2050 have been considered.
  - Class 4 and TAB Gambling Venue policy.
  - Significance and Engagement policy.
17. The recommended option is consistent with the principles set out in the named policies.
18. This matter is not included in the Ten Year Plan/Annual Plan as there are no financial implications as a result of the policy review.

**Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka**

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19. The recommended option provides for the following:
- No funding is required under the Ten Year Plan and Annual Plan;
  - It is consistent with the Council's plans and policies; and
  - It would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

**Attachments | Kā Tāpirihaka**

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A	Previous Draft Class 4 Gambling and TAB Venue Policy 2023
B	Amended Draft Class 4 Gambling and TAB Venue Policy 2023
C	Amended Statement of Proposal
D	Existing Class 4 and TAB Venue Policy 2018