

Agenda for a meeting of the Policy & Regulatory Committee to be held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **TUESDAY 19 JUNE 2018** commencing at **9.00am**.

Information and recommendations are included in the reports to assist the Board in the decision making process and may not constitute Council's decision or policy until considered by the Board.

1. **APOLOGIES AND LEAVE OF ABSENCE**
2. **CONFIRMATION OF STATUS OF AGENDA**
3. **DISCLOSURES OF INTEREST**
4. **CONFIRMATION OF MINUTES**
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5. **RECEIPT OF HEARING MINUTES AND DECISIONS**
- 5.1 Hearing held on Thursday 10 May 2018 – Anthony Fels Trust 6
6. **REPORTS**
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GJ Ion
CHIEF EXECUTIVE

Open Meeting

To	Policy & Regulatory Committee
From	Gavin Ion Chief Executive
Date	15 May 2018
Prepared by	Lynette Wainwright Committee Secretary
Chief Executive Approved	Y
Reference #	Gov1318
Report Title	Confirmation of Minutes

1. EXECUTIVE SUMMARY

To confirm the minutes of a meeting of the Policy & Regulatory Committee held on Tuesday 15 May 2018.

2. RECOMMENDATION

THAT the minutes of a meeting of the Policy & Regulatory Committee held on Tuesday 15 May 2018 be confirmed as a true and correct record of that meeting.

3. ATTACHMENTS

P&R Minutes

Minutes of a meeting of the Policy & Regulatory Committee of the Waikato District Council held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **TUESDAY 15 MAY 2018** commencing at **9.00am**.

Present:

Cr JD Sedgwick (Chairperson)
His Worship the Mayor, Mr AM Sanson
Cr DW Fulton
Cr JM Gibb
Cr SD Lynch
Cr RC McGuire
Cr FM McNally
Cr BL Main
Cr EM Patterson
Cr NMD Smith
Cr LR Thomson

Attending:

Mr GJ Ion (Chief Executive)
Mr I Cathcart (General Manager Service Delivery)
Mrs S O’Gorman (General Manager Customer Support)
Mrs L Wainwright (Committee Secretary)
Ms AM d’Aubert (Consents Manager)
Ms E Makin (Consents Team Leader – East)
Mr J Wright (Acting Consents Team Leader - West)
Mr M Balloch (Building Quality Manager)
Ms A Murphy (Corporate Planner)
Members of staff

APOLOGIES AND LEAVE OF ABSENCE

Resolved: (Crs Main/Thomson)

THAT an apology be received from Crs Bech and Church.

CARRIED on the voices

P&R1805/01

CONFIRMATION OF STATUS OF AGENDA ITEMS

Resolved: (Crs McGuire/Main)

THAT the agenda for a meeting of the Policy & Regulatory Committee held on Tuesday 15 May 2018 be confirmed and all items therein be considered in open meeting;

AND THAT all reports be received.

CARRIED on the voices

P&R1805/02

DISCLOSURES OF INTEREST

There were no disclosures of interest.

CONFIRMATION OF MINUTES

Resolved: (Crs Thomson/McInally)

THAT the minutes of a meeting of the Policy & Regulatory Committee held on Tuesday 20 March 2018 be confirmed as a true and correct record of that meeting.

CARRIED on the voices

P&R1805/03

RECEIPT OF HEARING MINUTES AND DECISION

The Consents Manager and Consents Team Leader – East gave a verbal update and answered questions of the committee.

Resolved: (Crs McInally/Lynch)

THAT the minutes and decision of a hearing for Te Kauwhata Land Limited held on Wednesday 21 February 2018 be received.

CARRIED on the voices

P&R1805/04

REPORTS

Delegated Resource Consents Approved for the months of March and April 2018
Agenda Item 6.1

The report was received [*P&R1805/02 refers*] and discussion was held.

The Consents Manager gave a verbal update and answered questions of the committee.

Summary of Applications Determined by the District Licensing Committee January – March 2018

Agenda Item 6.2

The report was received [P&R/1805/02 refers] and discussion was held.

Cr Smith gave a verbal update and answered questions of the committee.

Proposed Dangerous, Affected and Insanitary Buildings Policy 2018

Agenda Item 6.3

The report was received [P&R/1805/02 refers] and discussion was held.

The Building Quality Manager gave a verbal update and answered questions of the committee.

Resolved: (Crs Smith/Lynch)

THAT Council approve the proposed Dangerous, Affected and Insanitary buildings Policy and Statement of Proposal for consultation between 18 June 2018 and 18 July 2018; with a Hearing date scheduled for 1 August 2018.

CARRIED on the voices

P&R1805/05

Chief Executive's Business Plan

Agenda Item 6.4

The report was received [P&R/1805/02 refers] and discussion was held.

The Chief Executive gave a verbal update and answered questions of the committee.

2018 Meeting Calendar

Agenda Item 6.5

The report was received [P&R/1805/02 refers] and discussion was held.

There being no further business the meeting was declared closed at 9.54am.

Minutes approved and confirmed this day of 2018.

JD Sedgwick
CHAIRPERSON

Open Meeting

To	Policy & Regulatory Committee
From	Gavin Ion Chief Executive
Date	28 May 2018
Prepared by	Lynette Wainwright Committee Secretary
Chief Executive Approved	Y
Reference #	GOV1318
Report Title	Receipt of Minutes – Anthony Fels Trust

1. EXECUTIVE SUMMARY

To receive the minutes and decision of a hearing for Anthony Fels Trust held on Thursday 10 May 2018.

2. RECOMMENDATION

THAT the minutes and decision of a hearing for Anthony Fels Trust held on Thursday 10 May 2018 be received.

3. ATTACHMENTS

Hearing decision and minutes 10 May 2018 2018

MINUTES of a hearing by an Independent Commissioner acting on behalf of the Waikato District Council held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **THURSDAY 10 MAY 2017** commencing at **9.30am**.

These minutes should be read in conjunction with notes and evidence placed on the Consent file.

Present:

Commissioner D Hill

Attending:

Mrs LM Wainwright (Committee Secretary)
Mrs W Wright (Committee Secretary)
Mr J Wright (Acting Consents Team Leader)
Mr M Brown (Land Development Engineer)
Ms B Parham (Legal Counsel for Waikato District Council)
Ms S Brown (BCD Group Ltd)
Mr P Skilton (PRS Planning Services Ltd for the Applicant)
Mr A Fels (Applicant)

HEARING – ANTHONY FELS TRUST

File No. SUB0104/18

Application by Anthony Fels Trust to undertake a two lot subdivision of Lot 15 DP 32533 in Computer Freehold Register SA856/246 located at 55 Wainui Road, Raglan. Lot 1 is proposed at 517m² (413m² net site area) and Lot 2 at 404m² with a total site area of approximately 921m².

INTRODUCTION

Commissioner Hill welcomed all parties and gave a brief outline of the hearing process.

HEARING OF THE APPLICATION

The reports were taken as read and the applicant's representative did not wish to add any further information.

The Commissioner asked questions of all parties and general discussion was held.

RIGHT OF REPLY

The applicant's representative gave his right of reply.

The hearing adjourned at 10.26am and the decision reserved.

The hearing was declared closed at 1.49pm on Tuesday 15 May 2018.

DELIBERATIONS

The Commissioner undertook deliberations on all evidence presented.

DECISION

THAT the Independent Commissioner confirmed the application of Anthony Fels Trust be declined as outlined in the decision dated 23 May 2018.

HE1805/01

IN THE MATTER OF the Resource Management Act 1991
AND
IN THE MATTER OF application by Anthony Fels Trust to Waikato District Council under section 88 of the Resource Management Act 1991 for a subdivision consent for 2 lots at 55 Wainui Road, Raglan (being Lot 15 DP 32533 in Computer Freehold Register SA856/246).

Decision following the hearing of an application by Anthony Fels Trust to Waikato District Council for a discretionary activity subdivision (Living Zone) resource consent under the Resource Management Act 1991

Proposal

To subdivide Lot 15 DP 32533 in Computer Freehold Register SA856/246 at 55 Wainui Road, Raglan, where Lot 1 is proposed at 517m² (413m² net site area) and Lot 2 at 404m², with a total site area of approximately 921m². Council reference SUB0104/18.

The application was heard at Ngaruawahia on 10 May 2018.

The resource consent sought is **REFUSED**. The reasons are set out below.

Hearing Commissioner:	Mr David Hill
Application numbers:	SUB0104/18
Applicant:	Anthony Fels Trust
Site addresses:	55 Wainui Road, Raglan
Legal descriptions:	Lot 15 DP 32533 in CFR SA856/246
Site area:	921m ²
Zoning:	Living Zone within Waikato River Catchment Policy Area
Lodgement:	9 October 2017
S92 Request:	1 November 2017
S92 information:	15 November 2017
Limited notification:	21 February 2018
Submissions closed:	23 March 2018
Hearing commenced:	10 May 2018

Hearing closed:	15 May 2018
Appearances:	<u>The Applicant:</u> Mr Anthony Fels (Applicant). Mr Peter Skilton (Planner – PRS Planning Services Ltd) <u>Submitters:</u> Nil <u>Council:</u> Ms Bridget Parham (Counsel) Ms Sara Brown (consultant - Reporting Planner) Mr Jason Wright (Acting Consents Team Leader) Mr Malcolm Brown (Land Development Engineer) Ms Lynette Wainwright (Committee Secretary) Ms Wanda Wright (Committee Secretary)

Summary Decision:

1. Pursuant to section 104 and 104B of the Resource Management Act 1991, the discretionary activity subdivision consent application is refused.

Introduction

2. This decision is made on behalf of the Waikato District Council (Council) by Independent Hearing Commissioner Mr David Hill appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (the RMA).
3. This decision contains the findings from my deliberation on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
4. The application was limited notified to 8 identified owners/occupiers of adjacent properties on 21 February 2018, with submissions closing on 23 March 2018. Three submissions were received in time – all in opposition. No submitter wished to be heard.
5. No late submissions and no s104(3)(a)(ii) RMA written approvals were received
6. Consent was required because of non-compliant aspects of the proposal (as lodged) relating to the required lot size, boundary setbacks, right of way width, carparking, separation distances between accesses, and manoeuvring standards.
7. The s42A RMA hearing report was prepared for Council by Ms Sara Brown, consultant planner with BCD Group Ltd, and made available to parties on or about 11 April 2018. Ms Brown's overall recommendation was to decline the subdivision consent sought as she considered (in summary) that the effect on the environment of allowing the activity was inconsistent with the minimum net site area subdivision provisions of the applicable Living Zone (and would create a localised adverse precedent effect), and would have an adverse amenity effect on adjacent persons. Her report was informed by a technical review from Mr Malcolm Brown (Land Development Engineer), who indicated conditional support for granting consent subject to a range of proposed conditions.

8. On 24 April 2018 Mr Skilton, consultant planner for the applicant, filed a statement of evidence in response to the s42A report and indicated formally that, to avoid additional cost, the applicant was willing for the matter to be determined on the papers as no submitters sought a hearing, and sought a direction on that matter.
9. Having considered the request, on 27 April 2018 I issued a Direction, under s41C of the RMA, declining that option on the ground that the difference of opinion between the respective planning professional was such that it was more appropriate to hear and question the matter. Accordingly I directed Ms Brown to prepare a supplementary statement addressing Mr Skilton's evidence opposing her recommendation.
10. Ms Brown provided her supplementary written statement as directed on 7 May 2018. Mr Skilton then filed a Rebuttal statement on 8 May 2018.
11. The matter was heard in Ngaruawahia on 10 May 2018, and closed on 15 May 2018. No submitters attended.

Site description

12. As described in the s42A report the site is currently developed with an existing, single level dwelling located within the southern portion of the site. Access is obtained from Wainui Road, Raglan, via an existing, formed vehicle crossing located within the south-western corner of the site frontage. The site is of flat topography and contains established trees within the northern portion of the property where the remainder of the site is maintained in grass. A 1.8 metre high fence is located along the majority of the properties boundary. Access to both lots is proposed to be provided from Wainui Road via the existing vehicle entrance. A right of way easement will be provided over Lot 1 to provide access to Lot 2.
13. Properties adjoining the site and in the surrounding area, are similarly zoned and developed for residential use. Residential development in the area is characterised by a range of lot sizes, ranging from 403m² to 950m², which are occupied predominantly by single-storey dwellings of varying ages and styles

Summary of proposal and activity status

14. The proposal is to subdivide this 921m² living zoned site into 2 parcels, Lot 1 being 517m² (with a net site area of 413m²) and Lot 2 being 404m². The existing dwelling will be retained on Lot 1. No development of rear Lot 2 is currently proposed, the objective being potential sale of the vacant lot.
15. Resource consent is required under the operative Waikato District Plan – Waikato Section 2013 as follows:
 - Rule 21.16 – The proposed right of way has a width of entrance, near the entrance to the site and 3.6m between the dwelling and boundary where a minimum width of 6m is required. The right of way has a 3m wide seal where a seal of 4m is required. This is a restricted discretionary activity.
 - Rule 21.50 – The dwelling within proposed Lot 1 is located directly adjacent the proposed right of way where a minimum setback of 1.5m is required. This is a restricted discretionary activity.

- Rule 21.63 – Lot 1 of 517m² (413m² net site area) and Lot 2 of 404m² cannot comply with the minimum allotment size of 450m². This is a discretionary activity.
 - Rule A11 – Both proposed Lots 1 and 2 provide two carparking spaces respectively, however the District Plan requires one car space per bedroom, where Lot 1 contains a dwelling with three bedrooms. This is a restricted discretionary activity.
 - Rule A12 - The District Plan states that no vehicle is required to reverse to or from a shared space access. Cars parked on Lot 1 will be required to reverse onto the shared right of way when leaving the site. This is a restricted discretionary activity.
 - Rule Appendix A Table 5 – The existing entrance to the site cannot comply with the separation distances between accesses provided for in Table 5. This is a restricted discretionary activity.
16. The application has been reviewed for compliance with Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES). Council has no record of any HAIL activities occurring on the site and, therefore, the NES is deemed not to apply.
17. Overall the application is to be assessed as a discretionary activity. That activity status was not in dispute.

Procedural and other matters

18. No procedural matters were raised for consideration.

Relevant statutory provisions considered

19. In accordance with section 104 of the RMA I have had regard to the relevant statutory provisions, including the relevant sections of Part 2, sections 104 and 104B, s106, and s220 with respect to possible conditions.

Relevant standards, policy statements and plan provisions considered

20. In accordance with section 104(1)(b)(i)-(vi) of the RMA, I have had regard to the relevant policy statement and plan provisions of the documents noted below – the relevant provisions of which are assessed, variously, in section 3.0 of the application AEE, section 7 and Appendix 4 of Mr Skilton's evidence, and section 7.0 of Ms Brown's s42A hearing report. The identification of these provisions was largely agreed – albeit Mr Skilton placed more weight on the regional provisions. Having reviewed those provisions, and particularly the objectives and policies, I confirm and adopt them. Therefore, there is no need to repeat the details in this decision. Those provisions are contained in the following statutory documents:
- Waikato Regional Policy Statement 2016;
 - Waikato Regional Plan (WRP) 2007;
 - Waikato District Plan – Waikato Section 2013.

21. While the National Policy Statement on Freshwater Management and Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River were referred to, those documents have little material relevance to this consent application.
22. I do not consider any other matter to be relevant and reasonably necessary to determine the application in accordance with section 104(1)(c) of the RMA.

Permitted Baseline / Existing Environment

23. Mr Skilton argued that there is a relevant, non-fanciful, permitted baseline that should be acknowledged for the site – noting¹ that not only could the proposed ROW be formed as a driveway to the rear of the existing dwelling without the need for resource consent, but a 70m² Dependent Persons Dwelling and a 56m² accessory building with associated hardstand parking for 7 vehicles was practicable within the overall 40% building coverage rule (i.e. up to 368.4m²) and 70% impermeable surfaces (i.e. up to 644.7m²) without resource consent. This was shown in Drawing 17094PS:S2 dated April 2018 included as Appendix 1 of his statement of evidence.
24. At the hearing Mr Skilton requested a response from Council on the above proposition and Ms Parham indicated that Council agreed there was an applicable permitted baseline.
25. Council officer's subsequently confirmed that the DPD and accessory building shown in the above drawing constituted a permitted baseline – while noting that elements of non-compliance remained with respect to those matters requiring consent as noted above.

Summary of evidence / representations / submissions heard

26. The s42A Hearing report by Council's reporting officer, Ms Brown, was circulated prior to the hearing and taken as read.
27. The sole evidence presented at the hearing, by Mr Skilton on behalf of the applicant, responded to the particular issues and concerns identified in the s42A recommendation report and submissions. We address those matters directly.

Principal issues in contention

28. In terms of section 104(1)(a) of the RMA, the actual and potential effects of allowing the activity on the environment, I note that Council's land development engineer, Mr Brown, accepted that infrastructural and related engineering effects were not significant and could be managed. I accept that conclusion and therefore do not discuss those matters further and refer to the relevant report contained in the s42A report at Appendix B.
29. The principal issue in contention was the effect that granting the 2 lots (both of a net site area size less than the minimum 450m² required in this zone) could have:
 - (a) in terms of the perceived density (and corresponding amenity) of the specific subdivision proposed for those surrounding properties within the zone; and

¹ Skilton, Statement of evidence, section 4

- (b) in terms of a potential precedent effect resulting in significant numbers of applications for subdivision below the 450m² net site area standard.

30. These issues are discussed in the following section.

Neighbouring amenity

31. In light of the concession regarding a permitted baseline development it is difficult to see how a subdivided fully compliant residential dwelling on Lot 2 – albeit on a slightly smaller than standard lot (noting that on this 20.1m wide lot the shortfall represents a 2.3m strip on Lot 2 and a 1.8m strip on Lot 1) - would have materially different and significant adverse effects in terms of neighbouring amenity. While there was no suggestion that such a permitted baseline development is a real prospect, that cannot, in the circumstance, be considered entirely fanciful.

32. I also note that relevant objective 13.4.1 (which deals with the amenity values of sites and localities that are to be maintained by subdivision, building and development) has the following quite general policy provisions:

13.4.2 Subdivision, building and development should be located and designed to:

- (a) be sympathetic to and reflect the natural and physical qualities and characteristics of the area*
- (b) ensure buildings have bulk and location that is consistent with buildings in the neighbourhood and the locality*
- (c) avoid buildings and structures dominating adjoining land or public places, the coast, or water bodies*
- (d) retain private open space and access to public open space*
- (e) encourage retention and provision of trees, vegetation and landscaping*
- (f) arrange allotments and buildings in ways that allow for view sharing, where appropriate*
- (g) provide adequate vehicle manoeuvring and parking space on site*
- (h) provide vehicle, cycling and pedestrian connection to transport networks, including roads, cycleways and walkways, and facilitate public transport*
- (i) promote security and safety of public land and buildings, and places*
- (j) mitigate foreseeable effects (including reverse sensitivity effects) on, and from, nearby land use, particularly existing lawfully established activities*
- (k) mitigate foreseeable effects on water bodies*
- (l) maintain adequate daylight and direct sunlight to buildings, outdoor living areas and public places*
- (m) maintain privacy*
- (n) avoid glare and light spill.*

33. Furthermore, the anticipated environmental results from subdivision, building and development are stated under 13.10.2 as follows:

- (a) Maintain appropriate pattern of subdivision consistent with the land uses on and around the land being subdivided and maintains development density and open space characteristics of the locality.*
- (b) Maintenance of a high degree of amenity value in living environments, including sites and neighbourhoods.*
- (c) Avoidance or mitigation of adverse effects of developments on sensitive landscapes and natural areas, including the coastal environment.*
- (d) Provision of safe and accessible residential areas that encourage people to move around.*
- (e) Encourage design and appearance of buildings that is compatible with local character.*
- (f) Avoidance of visual clutter created by signs that are incompatible with their environment.*

(g) Development consistent with amenity values and expectations in the existing environment

34. As the existing environment contains net site area lots of less than 450m², albeit that is now discouraged under the operative District Plan, that “fact” must be taken into consideration when evaluating those amenity policy and outcome statements. It appears that Council and the community have now effectively benchmarked those minimum amenity matters to the 450m² proxy.

Finding

35. While I acknowledge neighbouring concerns and accept that certain boundary treatments would be required – such as appropriate acoustic fencing – these are matters that could be mitigated by conditions, albeit that the expectations of adjacent neighbours regarding “strict” compliance with the development and planning controls might be abridged. That is not, however, a requirement for a discretionary activity application which, by definition, must fail to comply with certain controls and standards.
36. Furthermore, as Mr Brown accepted with respect to infrastructural matters, the question of on-site vehicle manoeuvring is one that can be managed internally with no off-site effects provided vehicles are not forced to reverse onto Wainui Road. One feasible way in which that could be accomplished was shown in Mr Skilton’s drawing 17094PS:S1, Appendix 2 of his evidence.
37. Overall, I am not persuaded that any adverse amenity effect over and above that which might be generated as a permitted activity, or as might be conditioned, is sufficiently significant by itself to warrant declining subdivision consent.

Draft Conditions

38. In order to mitigate the neighbours’ concerns the applicant proposed conditions which, among others, would require the erection of a 1.8m acoustic fence along the western boundary to address the noise and privacy issues raised, retain the mature trees on proposed Lot 2, and adopt an Augier consent notice condition limiting development on Lot 2 to those activities permitted by and within the development controls specified by the existing operative plan.
39. I note that those measures would go some considerable way in addressing the site-specific concerns raised in submissions.

Precedent and zone integrity

40. Council’s main concern with this application related to the potential precedent effect that could be created for the rest of the zone if this application is granted.
41. The Court’s have accepted that a precedent effect can result from a discretionary activity application – although such would not normally be the case because every application is assessed on its merits and typically has unique characteristics that are distinguishable.
42. This latter point was addressed orally at the hearing by Mr Skilton in general terms relating to the flatness of the site, the ability to screen noise and visual effects, the permitted baseline, etc - although I am not persuaded that those characteristics of the

site are sufficiently distinguishable from other sites in the Raglan Living Zone, and Mr Skilton did not adduce any evidence on the question.

43. The precedent of concern arises, I was told, because the specific zone control (minimum net site area of 450m²) has been consistently applied without exception since the District Plan became operative in 2013 and is proposed to be retained in the reviewed District Plan scheduled for notification in mid-2018. The only apparent local exception being to regularise an existing situation of two flats at 16 and 16B Uenuku Avenue, Raglan in 2014 (as recorded in Ms Brown's evidence).
44. I understood Council's concern to be that there are numerous sections throughout the Raglan Living Zone that would fail to meet the net 450m² subdivision control, and that without clearly distinguishing site features, it would be difficult not to permit applications for subdivision from those lots if made should the present application be successful.
45. To test that assumption I asked Council to provide me (and the hearing subsequently) with an indication of how many existing titles in the Raglan Living Zone fell between 900m² and 1,000m² (the latter being the sum of two 450m² net lots plus a 100m² allowance for a rear lot driveway, therefore being the threshold above which compliance was highly probable) – since that was the band within which applications might sensibly be expected if the present application is granted (and Council's precedence concern manifested).
46. I was provided with the detail sought from Council's GIS database in the 4 ranges I had requested – being 900m² - 925m²; 926m² – 950m²; 951m² – 1,000m²; and 1001m²+ - as follows:

Lot size (M ²)	Number	Leasehold	Fee Simple	Stratum in Freehold	
900 - 925	32	8	24	0	
926 - 950	27	2	25	0	
951 – 1,000	61	10	51	0	
Totals <1,000	120	20	100	0	
1,001+	651	162	460	27	

47. In effect then, the maximum realisable precedent (from the 771 titles within the Raglan living zone that are greater than 900m² in area) would be in the order of 100 additional titles²².
48. A number of preliminary observations follow:
- An additional 100 lot potential from an existing 120 lots in the 900m² – 1,000m² lot range is a significant increase;
 - there are a significant number (and overall proportion) of sites larger than 1,000m² potentially capable of satisfying any demand for smaller net site area

²² Noting that a few of the very large leasehold lots may then be subdivisible to a smaller size, but those have not been estimated in this exercise.

lots across the Raglan Living Zone – in excess of 500 given the size of some of the existing large lots;

- (c) with the imminent notification of the reviewed District Plan, there is always the potential for applications to be accelerated from a concern that the rules might be tightened – the “floodgates effect”; but
 - (d) at the same time, Council has confirmed that it is not anticipating any change to the net site area subdivision policy – i.e. 450m² is proposed as the notified threshold. While a non-notified “draft” plan provision has absolutely no legal status, the policy indication is helpful information.
49. Mr Skilton correctly noted that lots below the minimum lot size are a discretionary activity under the Plan, not a non-complying activity. Had the Plan wished to restrict the lot size further, he suggested, it could have used that latter activity status with a further stated threshold – or proposed a prohibited activity status. While Mr Skilton is correct in the former proposition, one is not entitled to conclude that just because those latter status options are not used, reduced lots of whatever size are permissible. Clearly the objectives and policies then come into play – and these do not obviously support that proposition despite their overall generality. Having said that, it would certainly have been helpful to have some firmer policy or practice guidance on Council’s “acceptable” limits to any such discretion – particularly because, as Mr Skilton also noted, there are generic regional urban growth objectives and policies that encourage more intensive residential development.
50. The question of precedent plan-effect, like that of cumulative (or, for that matter, accumulative) effect, necessarily entails more than just an hypothetical prospect. There must be a realistic “edge” to the claim. Accordingly, it does not seem sensible to contemplate such an effect in that exceptional sense of s3(f) RMA – “*any potential effect of low probability which has a high potential impact*”, but rather of s3(e) – “*any potential effect of high probability*”. If the former standard was adopted as a precedent threshold for a plan-effect then any departure from a rule would likely be called into question, which would set a very high bar indeed – acknowledging the fact that the RMA definition is more relevantly considered in the context of s104(1)(a) effects than on the plan under s104(1)(b).
51. In this instance, even though the application window before a revised plan is notified, and whose objectives and policies at least will have increasing legal effect, is apparently short, the potential for precedence appears to have real prospect in the sense of being “highly probable”.

Finding

52. I find that the matter of precedent effect is fairly and reasonably raised and that the appropriate opportunity to revisit the policy matter will shortly be put before the public through the imminent statutory district plan notification process. While I note Mr Skilton’s recital, in his formal reply, of reasons why he considers the site unique from a planning point of view, as noted I am not persuaded that those are sufficiently distinctive to avoid consequential applications – which, of course, may be made at any time in any event. Accordingly I consider that there exists a reasonable risk of adverse precedence arising from a grant of consent under the present Plan provisions.

53. I acknowledge that the District Plan's rationale for the 450m² net site area metric is not apparent and was not explained to me with any confidence (other than to suggest that it was carried over from the previous plan). However, the indication that the same metric is being pursued in the soon-to-be-notified reviewed Plan suggests that both it and its s32 justification will be available for transparent testing. At this juncture it seems both prudent and appropriate to maintain the strong policy that Council appears to have adopted with some consistency under the operative District Plan.
54. I also acknowledge that there are many instances around NZ where district plans permit and/or encourage residential lots of lesser size even that the application net site area. That, however, is not the point. At this time Waikato District Council does not encourage such for the Living Zone.

Part 2 RMA

55. No s6 RMA matters of national importance or s8 (Treaty of Waitangi principles) were identified as being directly engaged by this application.
56. Of the s7 other matters to which particular regard is to be had, I consider the following relevant:
- (b) the efficient use and development of ... physical resources;
 - (c) the maintenance and enhancement of amenity values; and
 - (f) maintenance and enhancement of the quality of the environment.
57. Those matters were rehearsed in the respective documentation and evidence and regard to them has been had in this decision. I note that those matters are also engaged in the precedence argument.
58. When put into the wider context of the Part 2 sustainable management purpose of the RMA and the function of territorial authorities, it is difficult to see how allowing an application that falls short of the established zone subdivision parameters, albeit by a relatively narrow margin, in the absence of clear and compelling reasons of uniqueness, would be consistent with the integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district as is required under s31 RMA.
59. In this instance the net area shortfall is in the order of 8-10%, and even though I have found the consequential amenity effects to be of marginal additional adversity, and probably amenable to satisfactory conditioning, I find nothing distinctive or unique in the site.
60. Specifically, and on balance, I find that the application is unlikely to promote the sustainable management purpose of the RMA, in particular as that is expressed through the operative District Plan provisions for the Raglan Living Zone, and therefore it cannot be granted. The application is refused per s104B(a) RMA.

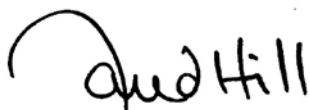
Decision

61. In exercising delegated authority under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, 104B and Part 2 of the RMA, the

subdivision application by Anthony Fels Trust for a 2-lot subdivision on the 921m² site at 55 Wainui Road, Raglan (Lot 15 DP 32533 in CFR SA856/246) is refused for the reasons discussed in this Decision and as summarised below.

Summary reasons for the decision

62. After having regard to the actual and potential effects on the environment of allowing the proposed activity, and taking into account the relevant statutory and statutory plan provisions, I find that consent for the proposed activities should be refused for the reasons discussed throughout this decision and, in summary, because:
- (a) While the adverse amenity effects of the proposed activity would be likely to fall within the bounds of what might be considered a typical range for this zone, it is not consistent with a key subdivision provision of the operative District Plan, and is unlikely to avoid creating an adverse precedent effect;
 - (b) In that respect granting consent would not be consistent with the sustainable management purpose and principles of Part 2 of the RMA or Council's integrated management functions under section 31 RMA as expressed through the District Plan;
 - (c) In particular, granting consent would be more likely than not to lead to other subdivision applications for lots of less than 450m² net site area, which the decision maker would have difficulty not granting since there is not sufficient uniqueness in the present application such that a credible precedent is not created;
 - (d) which, in this instance, suggests that the s104(1)(a) effects consideration should yield to the s104(1)(b) suite, as refusing consent better protects this underpinning provision of the Raglan Living zone and avoids the potential to undermine those provisions more widely; and
 - (e) the District Plan is currently under review (scheduled for notification in mid-2018) and, while Council advised that the policy direction for this zone is not intended to change, that is the appropriate process for determining whether it should and, if so, how and to what extent.
63. Overall, and while reasonably finely balanced, I find that refusing consent for the application is appropriate in the circumstance and at this time.



David Hill

Independent Hearings Commissioner

Date: 23 May 2018

Open Meeting

To	Policy & Regulatory Committee
From	Sue O’Gorman General Manager Customer Support
Date	11 June 2018
Prepared by	Beryl McCauley Consents Administrator
Chief Executive Approved	Y
Reference #	GOV1301
Report Title	Delegated Resource Consents Approved for the month of May

1. EXECUTIVE SUMMARY

This report gives information relating to all delegated Resource Consents processed for the month of May 2018 excluding hearings.

2. RECOMMENDATION

THAT the report of the General Manager Customer Support be received.

3. APPOINTMENT OF COMMISSIONERS

There were no commissioners appointed in this period

4. ATTACHMENTS

Delegated Authority Report - attached

- May 2018

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Awaroa ki Tuakau		Ward Total: 32		
Applicant	ID No	Address	Details	Decision
Watercare Services Ltd	DES0019/18	85 Friedlander Road TUAKAU	Outline Plan of Works to upgrade the Pukekohe Wastewater Treatment Plant (WWTP) to double the existing treatment capacity.	AcceptPlan
Signature Building Limited	LUC0279/17.02	62 Pokeno Road POKENO	S127 to change/cancel conditions of consent (LUC0279/17.02) to alter the location of one of the consented signs and allow one additional sign to be erected.	Granted
Maioro Property Limited	SUB0200/18	77 Maioro Road WAIUKU	Undertake a 9 lot subdivision in the Village Business Zone with an associated landuse consent to undertake earthworks and establish dwellings at ground level in the Village Business Zone	Granted
Maioro Property Limited	LUC0357/18	77 Maioro Road WAIUKU	Undertake earthworks and establish dwellings at ground level in the Village Business Zone as part of a subdivision consent to undertake a 9 lot subdivision in the Village Business Zone	Granted
Bayleypie Properties Limited	LUC0371/18	2598 River Road TUAKAU	Undertake earthworks that exceed permitted volume and cut and fill depth to construct four multi use units with outdoor living court and onsite parking non-compliances	Granted
S Ah-Young, F Ah-Young	LUC0387/18	85 Moon Ridge Close MANGATAWHIRI	To undertake earthworks exceeding the maximum permitted volume and cut depth.	Granted
Synlait Milk Limited	LUC0403/18	45 McDonald Road POKENO	Construct and operate a dairy factory which exceeds the maximum building height, has some planting proposed in the front yard with no plan provided, has a parking shortfall, entrances that exceed the maximum width and storage of Chlorine above the maximum size limits in the Industrial 2 Zone.	Granted
F J G Tonacao, R M Tonacao	LUC0405/18	6 Pams Way PVT POKENO	Construct a dwelling and shed that exceeds the permitted earthworks volume and area, and the shed, associated earthworks and wastewater system will encroach the 30 metre development setback from a stream in the Village Zone	Granted
The Pokeno Whisky Company Limited	LUC0438/18	45 William McRobbie Road POKENO	To construct a whisky distillery where the storage of the single malt whisky will be within 100 metres of a natural water body.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

R Bistricer	LUC0439/18	15 Te Ara Aukati Terrace POKENO	Establish a residential dwelling with an attached second dwelling and for earthworks that exceed the maximum volume, area and cut depth requirements within the Village Zone.	Granted
B A Smith, G M Smith	LUC0445/18	264 Waiuku-Otaua Road WAIUKU	To establish a house on a lot that fails a side setback requirement as part of subdivision (SUB0250/18) to undertake a transferable rural lot subdivision by transferring one development entitlement to a receiver site outside of the EEOA and the proposed entrance does not meet a separation distance requirement.	Granted
P Srivastava, P Srivastava	LUC0449/18	27 Wingfield Road POKENO	Construction of a dwelling exceeding the maximum permitted building coverage by 1.5% of the property.	Granted
R Harwood, S Edwards	LUC0450/18	45 Burrow Road PUKEKOHE	Construct a dwelling within the front yard and western side yard in relation to the road boundary and a side boundary in the Rural Zone.	Granted
Pokeno Village Holdings Limited	LUC0454/18	168 Hitchen Road POKENO	Undertake bulk earthworks on a site in the Residential 2 Zone which exceed the maximum area and volume.	Granted
M Sheikh, S Y Sheikh	LUC0457/18	34 Moira Drive TUAKAU	Undertake earthworks that exceeds permitted volume to create a safe building platform and the outdoor living court is located at southern quarter of the property.	Granted
Van Den Brink Poultry Limited	LUC0460/18	Ryders Road TUAKAU	Certificate of Compliance pursuant to section 139 Resource Management Act 1991 for the demolition of the former dairy factory building on the application site.	Approved
F J G Tonacao, R M Tonacao	LUC0462/18	6 Pams Way PVT POKENO	Certificate of Compliance pursuant to section 139 Resource Management Act 1991 to establish and operate a home occupation within 31.5m ² of the 94.5m ² shed to prepare and commercially cook meat for delivery in the Village Zone	Approved
W D Beatty, Quinkurtal Trust	LUC0465/18	47 Alexandra Redoubt Road TUAKAU	Construction of a building platform involving earthworks exceeding the maximum permitted volume of 250 m ³ by 642 m ³ and the maximum permitted height of a fill/depth of a cut of 1.5 m by 0.5 m.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

G A Van Dorsser, J Van Dorsser	LUC0467/18	15A Shipherd Road PUKEKOHE	Landuse consent for a future dwelling and wastewater field to be located within 30m from a Schedule 5A area on proposed Lot 1 as part of SUB0245/18 to create one additional lot via a Transferable Rural Lot Right subdivision	Granted
Pokeno Village Holdings Limited	SUB0052/18.01	152 Hitchen Road POKENO	S127 to change/cancel and add conditions to subdivision consent SUB0052/18 to reflect the addition of a sub-stage.	Granted
R R Walles	SUB0244/18	101 Hull Road WAIUKU	To transfer one rural lot right outside of the Environmental Enhancement Overlay Area (EEOA) to a lot located in the Rural Zone, also outside the EEOA, where the proposed Donor Lot does not meet the definition of 'Rural Lot'.	Granted
G A Van Dorsser, J Van Dorsser	SUB0245/18	15A Shipherd Road PUKEKOHE	Transfer one rural lot right outside of the Environmental Enhancement Overlay Area (EEOA) to a lot located in the Rural Zone, also outside the EEOA with an associated Land use consent to enable future residential development within Lot 1, located within the required 30m setback of an Outstanding Natural Feature identified in Schedule 5A.	Granted
G I Montenegro, D Montenegro	SUB0246/18	152A Aka Aka Road PUKEKOHE	To transfer one rural lot located outside of the Environmental Enhancements Overlay Area (EEOA) to a lot located in the Rural Zone, also located outside of the EEOA, where Lot 1 will exceed the minimum lot size requirement.	Granted
R J Best, D A Best	SUB0248/18	125 Wily Road PUKEKOHE	Undertake a Transferable Rural Lot subdivision outside of the EEOA by transferring one title from Glen Murray to create Lot 1 of 1.25 ha and Lot 2 of 11.27ha	Granted
B A Smith, G M Smith	SUB0250/18	264 Waiuku-Otaua Road WAIUKU	Undertake a transferable rural lot subdivision by transferring one development entitlement to a receiver site outside of the EEOA with associated landuse consent to establish a house on a lot that fails a side setback requirement. The proposed entrance does not meet a separation distance requirement.	Granted
K France	SUB0261/18	481 Razorback Road POKENO	Undertake a transferable Lot Right subdivision outside of the EEOA to transfer two titles to the subject site, creating a new allotment that exceeds the maximum lot size by 1.01 ha.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

P N Bannan, A P Bannan	SUB0263/18	Waller Road PUKEKOHE	To undertake a 2 lot transferable rural lot subdivision by amalgamating three existing certificates of title with both donor and receiver lots outside of the EEOA in the Rural Zone.	Granted
J Darlington	SUB0269/18	100 Wily Road PUKEKOHE	Transferable Rural Lot Subdivision: To transfer one rural lot right outside of the Environmental Enhancement Overlay Area (EEOA) to a lot located in the Rural Zone, also outside the EEOA, where the proposed Donor Lot does not meet the definition of 'Rural Lot'; and non-compliance related to private way width. NES: The proposed Lot 2 has been identified as containing HAIL Activities and is considered to be a Discretionary Activity under National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulation 2011.	Granted
W K Perrin	SUB0270/18	153 Beaver Road BOMBAY	To revoke 3 existing easements pursuant to S243(e) being Easement A (water supply) and Easements B and C (rights of way) between 151 and 153 Beaver Road.	Granted
Pokeno Village Holdings Limited	SUB0276/18	152 Hitchen Road POKENO	Undertake a subdivision to create 103 vacant residential lots in six stages, including five road lots (to vest) and one local purpose (drainage) reserve (to vest) on land zoned Residential 2.	Granted
Pokeno East Limited	SUB0281/18	126 Baird Road POKENO	Undertake a boundary adjustment between two Certificates of Title that contains land within the Rural, Village and Wetland Conservation Zone	Granted
Bothwell Farms Limited	SUB0286/17.01	Whiriwhiri Road WAIUKU	S127 to change/cancel conditions of subdivision consent (SUB0286/17) to reflect a change to the vehicle access to Lots 3 and 4	Granted

Eureka

Ward Total: 3

Applicant	ID No	Address	Details	Decision
Hamilton City Council	DES0020/18	Vaile Road NEWSTEAD	Outline Plan of Works pursuant to Section 176A of the Resource Management Act 1991 for building works to be undertaken at the crematorium within the Hamilton Park Cemetery.	AcceptPlan
A J Pink, G B Dwyer, J S Jaspers	FST0014/18	27C Marshmeadow Road NEWSTEAD	To relocate a used dwelling onto a property within the Rural Zone.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Kelvin Smith Limited	LUC0431/18	7A Lissette Road NEWSTEAD	To construct a dependent person's dwelling in the Rural Zone.	Granted

Hukanui - Waerenga		Ward Total: 11		
Applicant	ID No	Address	Details	Decision
Redline Holdings Limited	LUC0368/18	2219 Gordonton Road TAUPIRI	Undertake bulk earthworks of approximately 50,000m ³ in the Rural Zone, which exceed District Plan rules for maximum volume, height and area for earthworks. Consent for soil disturbance that requires consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011.	Granted
Gavins Ltd	LUC0415/18	1149 Gordonton Road GORDONTON	To grow crops within approximately 42,400m ² of tunnel houses, and construct and operate a rural industry (pack house for packing and storage of crops grown on site) and construct ancillary off-stream reservoirs failing earthworks volume and depth of cut.	Granted
Tainui Group Holdings Ltd	LUC0441/18	202 Tainui Road TAUHEI	Construct a garage and relocate a second dwelling on to a rural site not complying with the side yard setback rules.	Granted
Starwood Farms Ltd	SUB0016/18.01	117 Kainui Road TAUPIRI	S127 to change/cancel conditions of subdivision consent (SUB0016/18) to allow for staging of the subdivision and to amend the shape of Lot 1.	Granted
R J Bird, J M Bird	SUB0019/11.01	321 Sainsbury Road GORDONTON	S127 to change/cancel conditions of subdivision consent (SUB0019/11) to include new conditions to allow for the retention of the cottage, shed and garage.	Granted
W D Herbert	SUB0023/18	862 Waerenga Road WAERENGA	Undertake a subdivision and boundary relocation to create four allotments with two additional lots	Granted
W J L Coker	SUB0182/18	75 Henry Road TAUPIRI	To create one additional title through subdivision of a composite title in the Heavy Industrial Zone and Rural Zone.	Granted
Okaeria Farm Limited	SUB0205/18	130 Okaeria Road WAERENGA	Undertake a subdivision in the Rural Zone to create one additional lot of 1.57ha	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Okaeria Farm Limited	SUB0206/18	130 Okaeria Road WAERENGA	Undertake a Boundary Relocation in the Rural Zone to relocate a boundary between two rural lots to create one rural lot and one rural-residential lot with both properties having dates of Certificates of Title after 06 December 1997.	Granted
Twin View Farms Limited	SUB0225/18	161 Tainui Road TAUHEI	To undertake a subdivision involving the creation of one general subdivision lot and three conservation house allotments via the protection of an area of qualifying indigenous vegetation, in the Rural Zone.	Granted
J R Cameron, G J Cameron	SUB0284/18	466 Uapoto Road ORINI	Undertake a subdivision in the Rural Zone resulting in no additional titles	Granted

Huntly

Ward Total: 4

Applicant	ID No	Address	Details	Decision
Tainui Group Holdings Ltd	FST0007/18	1153 Rotowaro Road GLEN AFTON	To relocate a used dwelling onto a property within the Rural Zone.	Granted
L J Morland, H J Morland	LUC0442/18	3A Arohanui Street HUNTLY	Undertake earthworks that will exceed the maximum permitted volume and cut in the Living Zone.	Granted
Cobb-Vantress New Zealand Limited	LUC0481/18	837 Rotongaro Road ROTONGARO	Landuse consent for the storage and use of LPG on a site for an approved intensive farming activity in the Rural Zone	Granted
N P L Warren	SUB1045/11.02	283 Rotowaro Road ROTOWARO	S127 to change conditions of subdivision consent SUB1045/11 in relation to telecommunications and provision for wireless connection.	Granted

Newcastle

Ward Total: 2

Applicant	ID No	Address	Details	Decision
The Arthritis and Physio Ltd	LUC0410/18	714 Te Kowhai Road TE KOWHAI	Establish and operate a Healthcare Facility (Physiotherapy) in the Country Living Zone with earthworks, vehicle movement, building coverage and carparking non-compliances.	Granted
C Klein	LUC0470/18	19A Jon Roe Drive WHATAWHATA	Retrospective consent for earthworks that exceed the permitted volume for the purpose of forming a building platform for a dwelling in the Country Living Zone.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Ngaruawahia		Ward Total: 4		
Applicant	ID No	Address	Details	Decision
Debian Limited	LUC0409/18	Great South Road NGARUAWAHIA	Certificate of Compliance to confirm the permitted activity status for the demolition of the building formerly known as the Waipa Hotel and the widening of the entranceway on an adjoining property	Approved
Absolute Trust, P E Studer	LUC0413/18	213 Great South Road NGARUAWAHIA	Construct a two-stage, 73 unit storage activity, where the proposed Stage 2 buildings will encroach into the required building recession plane with respect to the south-western site boundary, and the minimum 7.5m building setback with respect to the southern site boundary.	Granted
F Ahmed	LUC0433/18	5 Lake Road HORSHAM DOWNS	To construct a Dependent Person's Dwelling that does not share a living court with the main dwelling on a property located in the Rural Zone.	Granted
BJS Developments Ltd	SUB0066/18.01	9 Innovation Way HOROTIU	S127 to change/cancel conditions of subdivision consent (SUB0066/18) to change the lot size, create a Right of Way and amend easements in relation to wastewater, rights to drain water and rights of way.	Granted
Onewhero-Te Akau		Ward Total: 12		
Applicant	ID No	Address	Details	Decision
A C Loveridge, R M Lalich	LUC0448/18	238 Mercer Ferry Road TUAKAU	Construct a dwelling within the setbacks in relation to a collector road and undertake earthworks that exceed the permitted volume of 250m ³ in the Rural Zone	Granted
R J W Horsley	LUC0561/17.01	Waikorea Valley Road MATIRA	S127 to change conditions of LUC0561/17 to allow blasting and an increase in the maximum annual and maximum total extraction volume	Granted
The C. Alma Baker Trust	SUB0045/17.03	1340 Port Waikato-Waikaretu Road TUAKAU	S127 to change/cancel conditions of subdivision consent (SUB0045/17) to remove Lots 4 and 5 from Stage 2 of SUB0045/17, created via the protection of bush covenant area 'P' in accordance with the TRLR requirements of SUB0160/17.01.	Granted
Waikawa Farms Trust Limited	SUB0222/18	331 Allen And Eyre Road TUAKAU	To undertake an environmental lot and transferable lot subdivision that results in seven additional lots over two titles outside the EEOA and to undertake a boundary adjustment.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

L R Chambers	SUB0234/18	466 Klondyke Road TUAKAU	To undertake a boundary relocation subdivision between two viable Computer Freehold Registers within the Rural Zone.	Granted
J McGowan, J H Murphy	SUB0235/18	90 Clark And Denize Road TUAKAU	Undertake a TRLR subdivision to transfer consented Lot 4 from SUB0178/18 to a receiver site in the Rural Zone outside of the EEOA.	Granted
Glenullen Holdings Limited	SUB0240/18	2443 Highway 22 TUAKAU	Undertake an environmental lot subdivision that results in the creation of two additional lots from the protection of 8.37ha of Qualifying Natural Features (QNF) outside the EEOA in the Rural Zone.	Granted
R M Tilsley	SUB0247/18	167 Wairamarama Onewhero Road TUAKAU	Transfer two rural lot rights outside of the Environmental Enhancement Overlay Area (EEOA) to a lot located in the Rural Zone, also located outside of the EEOA, where the proposed Donor Lot does not meet the definition of 'Rural Lot' where Lot 1 will exceed the minimum lot size requirement.	Granted
D Jamieson, C K Jamieson	SUB0253/18	1475 Churchill Road TUAKAU	Create one allotment through the transfer of a Rural Lot from outside of the EEOA to the subject site also outside of the EEOA resulting in Lot 1 of 2.14ha and Lot 2 of 4.39 ha.	Granted
G G A Fieten, S E Fieten	SUB0268/17.01	Waikaretu Valley Road TUAKAU	S127 to change/cancel conditions of subdivision consent (SUB0268/17) to remove references to consented Lot 1, 2, 3, 4 & 6 created under the transferable rural lot right provisions to transfer the lots away from this subject site to two other properties in other localities. In summary, the proposed changes relate to consented lots which have resource consent granted.	Granted
J & R Wright Limited	SUB0271/18	401 Otuiti Road TUAKAU	Undertake a boundary relocation between two titles in the Rural Zone	Granted
G M Smith, L R Smith	SUB0275/18	1891 Waingaro Road WAINGARO	Undertake a boundary relocation where the child lot is larger than the maximum lot size and the titles are not in common ownership in the Rural Zone	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Raglan		Ward Total: 14		
Applicant	ID No	Address	Details	Decision
S J Cox, A Cox	FST0013/18	Upper Wainui Road RAGLAN	To construct a new shed within the Coastal Zone	Granted
Tasman Lands Limited	LUC0071/10.02	21 Nau Mai Road OKETE	S127 to change/cancel conditions of resource consent (LUC0071/10) to change the effective areas (areas where development may occur), change in the extent and location that landscaping is to occur and change to the road alignment	Granted
B D Taylor	LUC0231/18	150 Whaanga Road RAGLAN	To undertake earthworks, construct an oversized non-residential building within the road boundary setback within the Living Zone. Departure is also sought to fail the required sight distances in regards to the proposed vehicle entrance. Retrospective resource consent is also sought for the existing non-compliance parking and manoeuvring space associated with the existing dwelling on the site .	Granted
J H Forbes	LUC0389/18	78M Greenslade Road RAGLAN	To construct a dwelling that results in setback infringement, height in relation to boundary infringement, insufficient onsite manoeuvring, and outdoor living court is not directly related to the living area of household unit.	Granted
B J Beamsley	LUC0423/18	41 Rose Street RAGLAN	Construction of a garage with a second dwelling on a property in the Living Zone creating additional traffic movements, and an encroachment on daylight admission by 1.6 m and a setback encroachment of 1.0 m on the north-eastern (side) boundary.	Granted
Service Resources Limited (Auckland)	LUC0424/18	8 Pokohui Avenue RAGLAN	Undertake extensions to an existing dwelling that result in an encroachment into the daylight admission plane.	Granted
Roskilde Partners Limited	LUC0429/18	5 Cross Street RAGLAN	To relocate a dwelling onto subject site with rule failures in regards to height to boundary, boundary encroachment and associated earthworks in the Living Zone.	Granted
NZ MS & Co Limited	LUC0432/18	29 Bow Street RAGLAN	Planning Certificate for the Sale of Alcohol for an On licence on a site in the Business Zone pursuant to Section 100 of the Sale and Supply of Alcohol Act 2012	Approved

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

M S V Abarca, L A Park	LUC0452/18	696C Te Hutewai Road TE HUTEWAI	To construct a Dependent Person's Dwelling that does not share an outdoor living court with the main dwelling on the site and has a garage exceeding the maximum gross floor area within the Rural Zone.	Granted
G D Cotter, L Cotter	LUC0468/18	36 Main Road RAGLAN	Relocation of a removable 36 m2 Dependent Person's Dwelling to a site 80 m2 below the minimum net site area of 900 m2 and not sharing an outdoor living area. Construction of an additional vehicle entrance failing vehicle separation distances.	Granted
The Karioi Trust	SUB0053/13.02	106 Ruapuke Road TE MATA	S127 to change/cancel conditions to subdivision consent SUB0053/13.01 to allow for an off-grid energy supply to Lot 7-9.	Granted
Wairau Farm Trust	SUB0203/18	3776 State Highway 23 TE UKU	Undertake a subdivision in the Rural Zone to create one additional allotment near a sand extraction site, and a new vehicle access on a State Highway.	Granted
Raglan Beachfront Limited	SUB0221/18	30 Government Road RAGLAN	Undertake a subdivision to create 3 lots and an Esplanade reserve in the Living Zone	Granted

Tamahere

Ward Total: 10

Applicant	ID No	Address	Details	Decision
M J Yearsley, J H Yearsley	LUC0229/17.01	4 Green Haven Lane TAMAHERE	S127 to change/cancel conditions of landuse consent (LUC0229/17) to increase impervious surface areas and to locate a covered deck in a gully	Granted
M F Hughes	LUC0289/18	21C Riverfields Lane TAMAHERE	Undertake activities which breach district plan permitted activity rules relating to impervious surfaces, building coverage, building setback (for allotments 1050m2 or more) from a boundary and gully building setback.	Granted
D J Connell	LUC0365/18	28 Cedar Park Road TAMAHERE	To construct a dwelling which together with driveway will exceed the permitted 700m ² impervious surface cover.	Granted
S J Hayward	LUC0436/18	48 Cedar Park Road TAMAHERE	Construct a dwelling extension which will exceed the permitted 700m ² impervious surface cover in the Tamahere Country Living Zone.	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Precision Built Limited	LUC0440/18	4B Twin Oaks Drive TAMAHERE	To construct a dwelling on a property in the Country Living Zone that breaches the gully and river bank stability setbacks and exceeds impervious surfaces and earthworks.	Granted
A N Colquhoun	LUC0459/18	133 Rosebanks Drive TAMAHERE	Construct a shed which together with the dwelling, paving and driveway will exceed the permitted 700m ² impervious surface cover in the Country Living Zone.	Granted
G D McMahon, P A McMahon	LUC0464/18	337C Newell Road TAMAHERE	Construct a new dwelling and driveway that will exceed the maximum permitted impervious surfaces on a Country Living Zone site in Tamahere.	Granted
Beckside Developments Limited	SUB0020/18	61 Woodside Road MATANGI	Undertake a boundary relocation in the Rural Zone to relocate four existing rural Lots to an adjoining lot that would gain vehicle access to Woodside Road via a 600m right of way (ROW) and two access lots with change of land use (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health)	Granted
T E Pickering, S F S Pickering, R O Edge	SUB0050/11.02	430 Pickering Road TAMAHERE	S127 to change/cancel conditions of subdivision consent SUB0050/11 to allow for wireless telecommunications.	Granted
B J Morgan	SUB0258/18	302 Matangi Road MATANGI	Undertake a subdivision in the Rural Zone resulting in no additional titles	Granted

Whangamarino

Ward Total: 8

Applicant	ID No	Address	Details	Decision
A R Laker, R M Laker	FST0012/18	31A Rimu Street TE KAUWHATA	Relocate an existing dwelling to a 755 m ² site within the Living Zone.	Granted
G Harding, T W Devis	LUC0257/18	240 Esk Road MARAMARUA	Retrospective landuse resource consent for earthworks which exceeds the maximum permitted volume per year by 800m ³ , undertake earthworks associated with the construction of the proposed retaining wall on-site and for not achieving 80% ground cover of earthworked areas within 12 months of the earthworks being commenced in the Hauraki Gulf Catchment Area	Granted

Delegated Authority Report

Period from 1 May 2018 to 31 May 2018

Shearer & Baverstock Cropping Limited	LUC0380/18	87 Plantation Road TE KAUWHATA	Operate an industry activity within the Rural Zone by establishing a non-residential building of 805m ² . Parking / loading spaces required for the activity will not be marked, drained or sealed. Existing access will not meet a separation distance requirement.	Granted
Ngakau Atawhai Limited	LUC0437/18	8B Totara Place TE KAUWHATA	Resource consent for the change of use, earthworks and proposed remediation of the site under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011	Granted
J R De Penning, A W De Penning	SUB0185/18	1716 Miranda Road MIRANDA	To undertake a TRLR subdivision to transfer consented Lot 3 from SUB0228/18 to a receiver site in the Rural Zone outside of the EEOA.	Granted
Emerald Downs Limited	SUB0257/18	822A Kaiaua Road MANGATANGI	To undertake a Transferrable Rural Lot Right subdivision that transfers consented Lot 5 (SUB0268/17) to the receiver property, where the proposed new Lot 3 exceeds the maximum allotment size requirements, in the Rural Zone and outside of the EEOA.	Granted
B A Riddell	SUB0288/18	25 Murray Ward Drive TE KAUWHATA	Create one additional lot in the Rural Zone and amalgamate it with an adjoining property in the New Residential Zone and to amalgamate the balance lot with adjoining allotments.	Granted
Rushala Farm Limited	SUB1082/11.01	1157 Kaiaua Road MANGATANGI	Section 127 to change the conditions of consent SUB1082/11 to reflect the new proposed location of Lot 1.	Granted

Open Meeting

To	Policy & Regulatory Committee
From	Sue O’Gorman General Manager – Customer Support
Date	8 June 2018
Prepared by	Tony Pipe Environmental Team Leader
Chief Executive Approved	Y
Reference #	GOV1318
Report Title	Review of the Gambling Venues Policy 2015

1.0 EXECUTIVE SUMMARY

The gambling Act 2003 and Racing Act 2003 both require Local Authorities to adopt a class 4 gambling venue policy and a TAB Board venue policy.

Due to the similarity of the Acts, Waikato District Council, like most Councils, has traditionally combined the requirements of both Acts into one policy.

The policy must specify whether or not class 4 gambling venues or TAB venues may be established in the district and if so where and with what, if any, conditions. Policy may also specify any restrictions on the maximum number of gaming machines that may be operated at class 4 venues and the terms of any relocation or merger, if approved.

The Acts require councils to review the policy on a 3 yearly basis to provide an opportunity to reflect on the current community views and the changing nature of the district. Review is due now.

At the Gambling Venues Policy workshop with Council on 23 May 2018 the Council requested that options be prepared and presented here for consideration with the view of progressing to consultation. Legal opinion, in relation to questions asked by Council at the workshop, are included in discussion here.

2.0 RECOMMENDATION

THAT the report from the General Manager – Customer Support on the Gambling Venues Policy be received;

AND THAT; the Policy and Regulatory Committee determine their preferred option

AND FURTHER THAT they support a strategic engagement document for the preferred option being tabled at the next meeting of Council for agreement prior to public consultation.

3.0 BACKGROUND

The Gambling Act 2003 enables councils to control the growth of class 4 gambling in conjunction with other agencies, seeking to balance the potential harm from gambling with responsible gambling, as an entertainment, which ensures money from gambling benefits the community.

The Racing Act 2003 enables long term viability of New Zealand racing by establishing controlled TAB venues. There are no TAB venues that currently exist in the Waikato district.

Under the two Acts council is required to have a class 4 venue and TAB venue Policy.

Councils role is to decide if new venues may be established, where they may be relocated, if existing venues may be relocated or merged, the conditions that may be applied to these activities, how many machines venues they may have once established or relocated and what the primary role of the venue must be.

The council's current Gambling Venues Policy was adopted in 2015 following community engagement in 2014. At that time, feedback was asked on the preferred opinion formulated for consideration. This was the first review of the combined Waikato and Franklin districts.

Consultation during this process was undertaken with internal stakeholders, community boards/committees, Waikato-Tainui/local iwi, households and business.

Approximately 100 community members attended 5 public meetings. Submissions were gathered and a hearing held with 6 verbal submissions following public notice of the proposed Policy.

The establishment of class 4 venues and gaming machines at the time of the last review and current is shown below.

Table I. Waikato district gambling venues and numbers.

Waikato district	2014	2018
Class 4 venues	20	19
Max number gaming machines approved	280	262
Number of machines operating	239	243
No stand alone TABs (Board Venues - Racing Act 2003) operate in the Waikato district.		

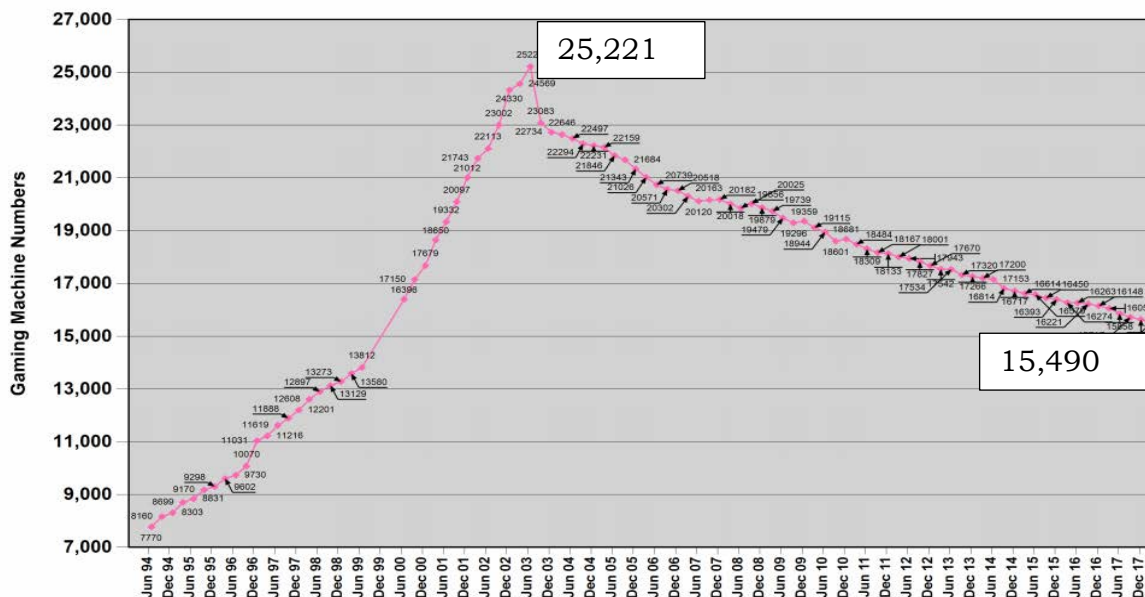
Table I reflects the closure of one premises and another has increased machine numbers to the licensed level.

At March 2018 Waikato district has 1.66% of the national number of venues and 1.57% of the national number of class 4 gaming machines.

Nationally, the number of class 4 venues and machines has been falling steadily since 2003 as shown below in table 2. The overall reduction in the Waikato since the last policy review in 2014/15 has been 1 venue and 18 gaming machines from the total approved.

Table 2. National number of gaming machines 1994 to 2017.

Gaming Machines Numbers: June 1994 to March 2018 at 3-Monthly Intervals



Report generated on : 23 April 2018

4.0 DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

Gambling is a legal activity in New Zealand and a form of entertainment for most participants. It has a darker side in the problem gambler who can have a negative influence on themselves, family and others. It has been estimated that for every problem gambler there are between 7 and 17 others who may be affected.

Gambling also impacts negatively on certain groups of people, for example, Maori and Pacific, women and those living in high deprivation areas. The concern of potential harm is such that several agencies have been given responsibility for gambling control and minimising harm from gambling including the Department of Internal Affairs (DIA) and Ministry of Health (MoH).

Most proceeds from gambling go back to gamblers and to a lesser degree the community and many community organisations utilise gambling funds for the benefit of the community. The challenge for policy makers is to consider what level of risk is currently acceptable in the local community, reflecting community opinion, and considering these aspects (both positive and negative) along with the controls that are already in place to control harm from gambling.

The ‘overwhelming majority of adult New Zealanders do not participate even occasionally in permanent “continuous” forms of gambling such as, gaming machines, casino gambling, horse and dog races or sports betting. While 62% of adults have bought a lottery ticket only about 14% have played a class 4 gaming machines.

Monetary factors:

Financially, New Zealand total gambling expenditure (or gambler losses) is around \$2 billion each year. About \$9 million of expenditure came from (class 4) losses in the Waikato district in 2017/18. This is about 1% of the national class 4 expenditure. Expenditure on gaming machines (class 4) has increased around 2.3% nationally over the previous year.

Table 3. **Class 4 venues by area with proceeds (losses).** (For 6 months to 31 March 2018)

	# Venues	# Machines	Gross Machine proceeds
Ngaruawahia	3	32	\$576,579
Huntly	4	59	\$1,232,878
Raglan/Taupiri/Whatawhata	4	54	\$632,741
Maramarua/Rangiriri/Te Kauwhata	3	30	\$473,602
Pukekohe/Kaiaua/Mercer	5	68	\$1,514,240
Total	19	243	\$4,430,040 (for 6 months)

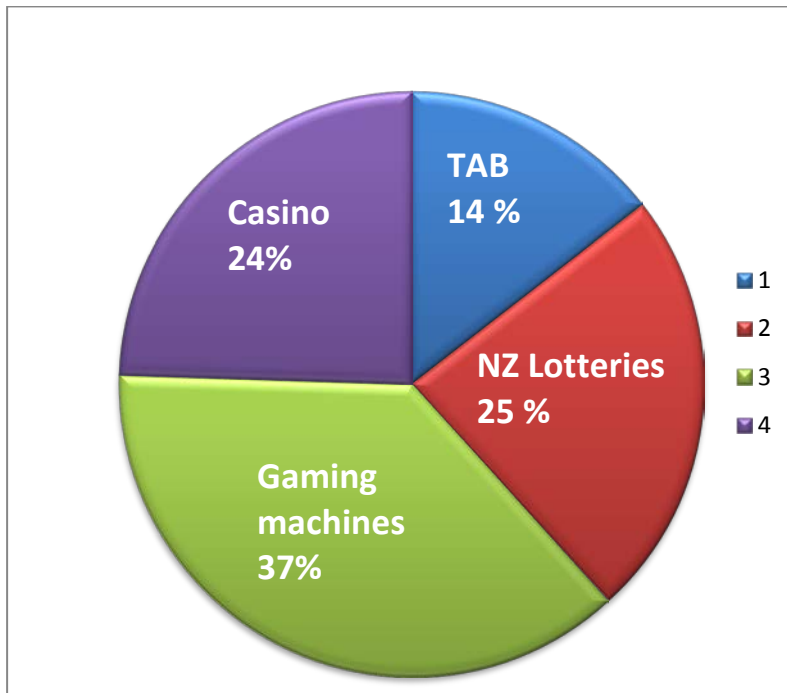
Gross Machine Proceeds (GMP) is the amount after prize money has been removed

A list of current class 4 venue locations in the Waikato district, with current and maximum machine numbers shown for each venue, is contained in attachment 2.

A map of class 4 venue locations in the Waikato district is contained in attachment 3.

The following chart shows the losses by gamblers through the various forms of gambling. It can be seen that losses from class 4 gaming machines is significant.

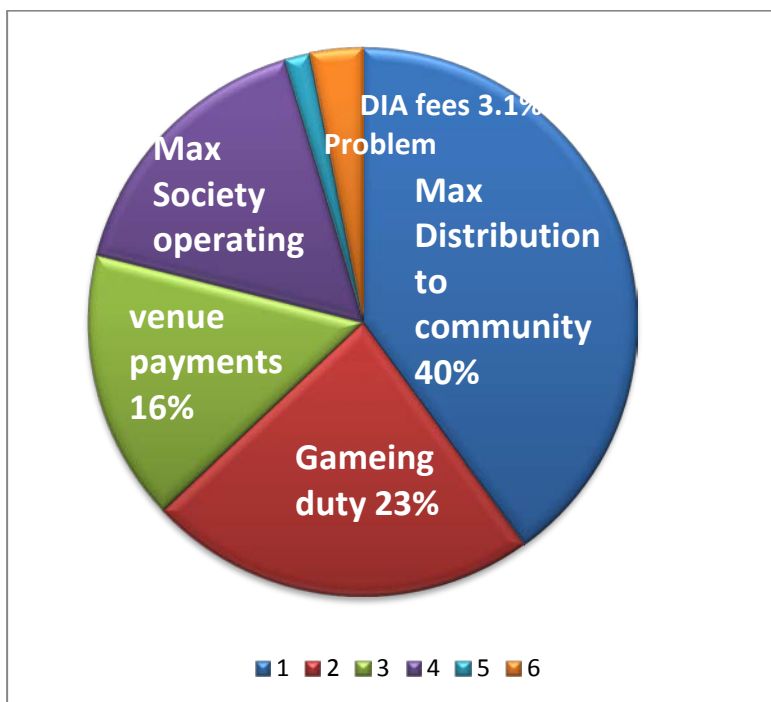
Chart 1. **Gambling expenditure (losses) for various modes of gambling after prize money has been removed**



Key point: Gaming machine expenditure is significant as a % of the wider sector.

Around 91% of money spent on gaming machines is typically returned in prize money. A proportion of the remaining proceeds (gambling losses) are returned to the community.

Chart 2. **Allocation of class 4 gaming profits (for a corporate society) after prize money has been removed.**

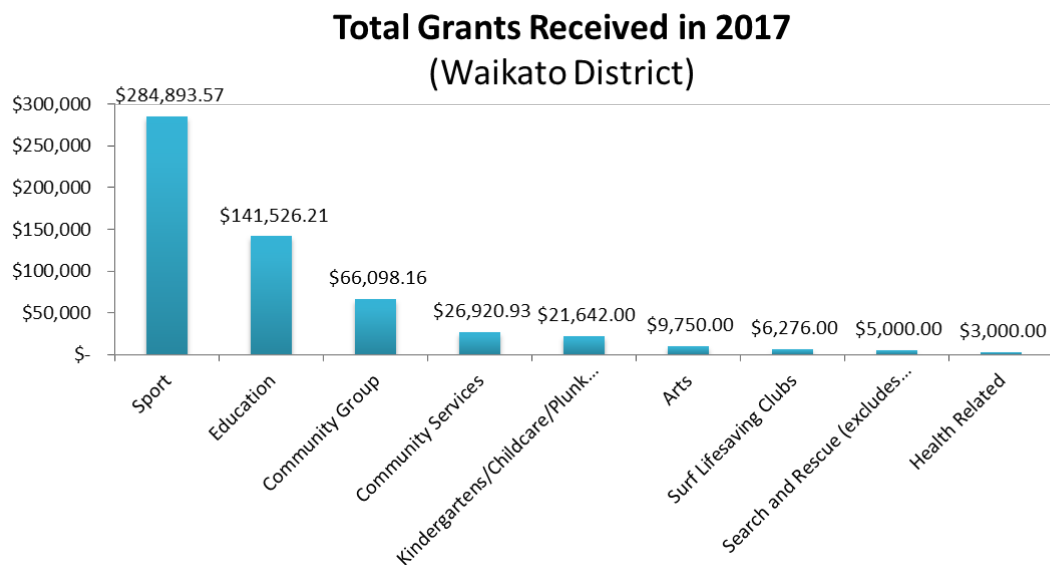


Key points:
 Nationally app \$260 million was granted to communities from class 4 gambling in 2015.
 A levy of 1.5% of losses goes towards Problem Gambling initiatives.

The above chart considers the distribution for corporate societies. Clubs provide gaming machines for members and guests do not typically distribute the profits to the community but apply them back to the club.

In comparison, nationally, the racing board distribute net proceeds to the community, in 2017, of around \$15 million. The lottery grants board distributed \$235 million in 2016/17.

Distribution of class 4 gaming machine losses to the Waikato community is shown below. It should be noted that distribution to national organisations is not included but may still benefit local communities.



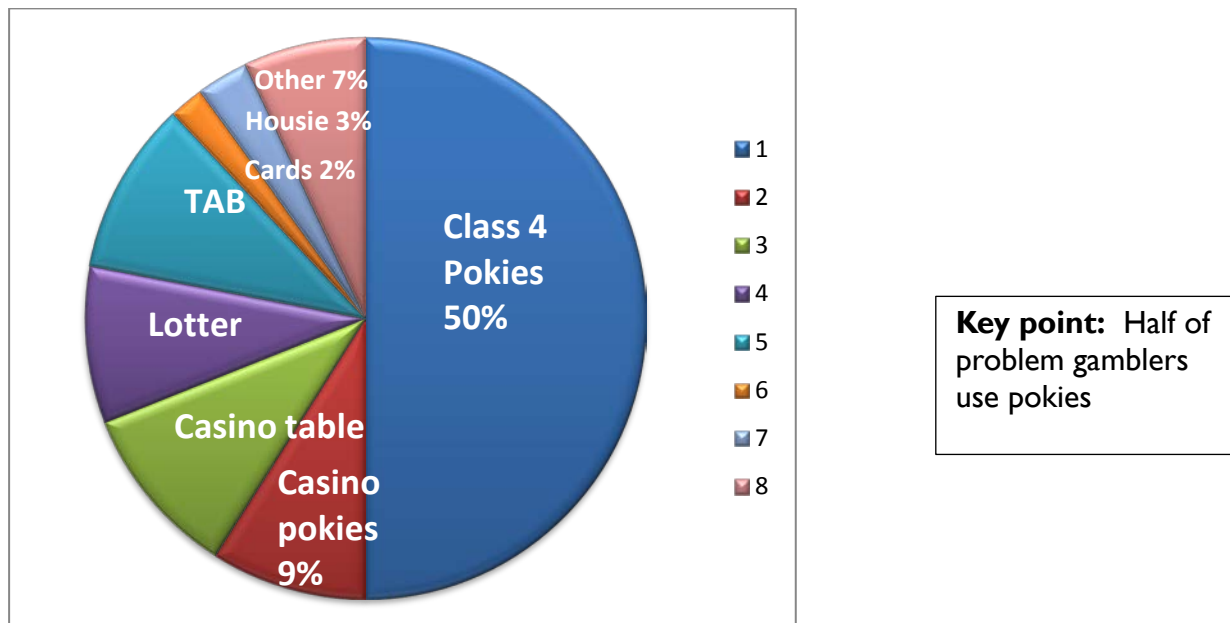
Grants shown above totalled \$565,106 for the period 1 January 2017 – 31 December 2017. The above grant information is provided to the DIA by the Problem Gambling Foundation (PGF) for the Waikato district. This information includes non-clubs that may make grants to other bodies for community purposes, but does not include clubs that apply funds to their own purposes.

Problem gambling:

113 persons in Waikato district sought help for gambling in the 12 months to June 2017. The prevalence of problem gambling (from any form of gambling) is estimated at between 0.3 % and 0.5% of the adult population. (2006/07 NZ health survey.)

The primary mode of harmful gambling cited by most clients is class 4 gaming machines (66.8% of respondents). (Source: 2007 data, cited in the 2008 MOH paper 'Problem gambling intervention Services in NZ')

Chart 3. **Gambling modes of people receiving problem gambling support services**



Harmful effects of problem gambling can include; Financial, work, parenting, violence, alcohol abuse, mental health or suicide.

Those living in high deprivation areas are more likely to be problem gamblers or suffer from gambling related harm. Maori and pacific peoples are more likely to feature in problem gambling statistics and suffer from gambling related harm.

Class 4 gaming machines pose a higher risk for Maori and Pacific women. (2007 Service user statistics, 2006/07 gaming and betting activities survey, 2005 Participation and Attitudes survey.)

Problem gambling support:

The Gambling (Harm Prevention and Minimisation) Regulations amended in March 2015 enable a range of measures to control problem gambling that include restriction on ATMs in gambling areas, maximum stake and prize limits. Restrictions also involve advertising and promotion of staff training along with self-exclusion of gamblers that include fines for venues that breach this.

Venues have a legal duty to minimise gambling harm and venue staff have a responsibility to keep gamblers safe. The Health Promotion Agency in partnership with the Department of Internal Affairs and Ministry of Health has developed a gambling host pack with resources to support venue staff to meet their host responsibility.

The Problem Gambling Foundation of New Zealand, Salvation Army and Problem Gambling helpline provide free and confidential gambling counselling services for both gamblers and others affected by gambling.

Current Policy:

The current policy is intended to provide a 'sinking lid' of gaming machine numbers over time, when venues close, merge or relocate. Control of venue (both class 4 and Board) location is enabled by the policy. A summary of the current salient WDC policy points is outlined below. The current policy is attached.

- **No further class 4 venues**
- The **maximum number of gambling machines** that may be operated at a single existing venue is **9** if relocating (unless restricted to less prior to policy).
- **Relocation** is supported if improvements are for the purposes of the primary venue activity.
 - New venues (after relocation) must be located in an area with a deprivation index the same or better
 - No increase in the number of gambling machines allowed with relocation.
- For **merger and relocation**, Council may approve > 9 gambling machines when considering criteria such as the district characteristics etc.
- **Merged** number of gaming machines is < 18 machines or the sum of the machines prior to merge.
 - Clubs merging must stay within the same community of interest.
- **TAB venues may be established.**
 - Restricted to areas zoned to allow commercial activities.
 - Council may consider criteria such as the district characteristics etc.

Legal opinions requested:

At the workshop on the 23 May 2018 Council requested that legal opinion be gained on four questions which would inform options. These are outlined below.

1. Is it possible for Council to prohibit mergers between class 4 venues?

Legal opinion is: that Council has no authority to prohibit mergers.

NB: TA consent is required if a corporate society proposes to increase the number of gaming machines in association with an application for Ministerial approval for joint approval by 2 or more corporate societies, that are clubs intending to merge, to operate up to a combined number of gaming machines each was allowed to operate.

2. Is it Possible to revoke a class 4 licence of one of the venues if two or more are looking to merge i.e. limit the number of machines in this way to 9 rather than 18.

Legal opinion is: Council does not have the authority to revoke a (existing) class 4 licence. Council can only refuse to allow an increase in gaming machine numbers at any venue.

3. Is it possible to cap a class 4 venue at the number of machines they currently operate? For example, if a venue has 5 machines but are licensed for say 9 can Council cap them at 5.

Legal opinion is: Once TA consent is issued, the number of machines the venue may operate is limited to the number in the consent. So in this example 9.

4. Is it possible to prohibit class 4 venues from being located next to one another or in close proximity?

Legal opinion is: That Council has the authority to specify in Policy where class 4 venues may be located. This would include both the areas in which they may be located and any prohibited special associations.

4.2 OPTIONS

At the workshop on 23 May 2018 Council requested that three options be presented to this committee for consideration and consultation. These options (1, 2 and 3) range from the current policy which has a sinking lid approach to more restrictive options for enhanced control and timely impact. A further option (4) has been included as an alternative.

Please note: The following options consider relocation or merger with gaming machines. Businesses do not need council permission if they are merging or relocating and not intending to include gaming machines.

Please note: There is no ability to change the number of machines existing premises have been approved to operate. The opportunity to change numbers, since the Gambling Act 2003, is associated with movement of the class 4 operations i.e. relocation or merging.

Please note: Venue licences are granted by the Department of Internal Affairs. If it was granted before 17 October 2001 the maximum number of gaming machines is 18. For those venues granted a licence after October 2001 the maximum number of gaming machines is 9.

Please note: Option 2 is considered, after legal opinion, to not be viable.

The changes to the current policy associated with options 3 and 4 are shown in attachment I.

Option 1. Status Quo - carry over existing policy	
Overview	Sinking lid on the number of machines allowed for at the time of relocation or merger.
Key components	<p>No new class 4 venues may be established.</p> <p>Existing class 4 venue</p> <p>Restrict the number of machines that may operate at a class 4 venue to 9 or current entitlement if less. Applications seeking to operate</p>

	<p>more than 9 machines will not be permitted.</p> <p>Class 4 venues relocation.</p> <p>Relocation is permitted under the following conditions:</p> <p>The new venue has been constructed or refurbished for the purpose of the primary activity of the venue.</p> <p>Relocation including club merger must be within the same community of interest as the original club.</p> <p>For other venues the new venue must be located in an area with a deprivation index at least the same or lower than the existing venue.</p> <p>1(a.) When considering an application council may have regard to a range of criteria including</p> <ul style="list-style-type: none"> • Characteristics of district, Location of kindergartens, early childhood centres, schools, places of worship and other community facilities. • The number of gaming machines permitted • Proximity of other venues • The primary activity of the venue. <p>Class 4 venue mergers</p> <p>Permitted with a combined maximum of 18 machines or the sum of machines previously operated (if less than 18).</p> <ul style="list-style-type: none"> • The above considerations (shown in 1a) may also be applied. <p>TAB venues:</p> <p>There are no Board venues currently in the district. Council may in its discretion permit a new board venue to be established.</p>
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Option 2. Change to existing policy – prohibit mergers	
This option is not considered viable based on legal opinion.	
Overview	Sinking lid on venues and machines with relocation permitted and mergers prohibited.
Key components	<p>No new class 4 venues may be established.</p> <p>Existing class 4 venue</p> <p>Restrict the number of machines that may operate at a class 4 venue to 9 or current entitlement if less. Applications seeking to operate more than 9 machines will not be permitted.</p> <p>Class 4 venue relocation permitted under the following conditions:</p> <p>For example: Allow relocation if this is for the purpose of the primary activity of the operation and if:</p> <ul style="list-style-type: none"> • the existing venue is physically unable to be used for the primary purpose of the venue • For example, the landlord refuses to renew a lease. • For example, the building is deemed dangerous or insanitary or earthquake prone. <p>NB: Council may have regard to the range of criteria outlined in option 1(a).</p> <p>Class 4 merger is not permitted.</p> <p>For example: a venue that wishes to merge for whatever reason will not be permitted to do so , including the need to vacate the existing venue due to say fire or termination of lease.</p>

Option 3. Change to existing policy – no relocation permitted	
Overview	Sinking lid on venues and machines with no relocation.
Key components	<p>No new class 4 venues may be established.</p> <p>Existing class 4 venue</p> <p>Restrict the number of machines that may operate at a class 4 venue to 9 or current entitlement if less. Applications seeking to operate more than 9 machines will not be permitted.</p> <p>Class 4 venue mergers</p> <p>Permitted with a combined maximum of 18 machines or the sum of machines previously operated (if less than 18).</p> <ul style="list-style-type: none"> • The above considerations (shown in 1a) may also be applied. <p>No class 4 venue relocations permitted</p> <p>For example: A class 4 venue site that is destroyed by fire will not be permitted to relocate to another venue site.</p>

*

Option 4. Change to existing policy – Further restrict conditions of relocation and merger	
Overview	Sinking lid on venues and machines with restrictions on relocation and merger conditions
Key components	<p>No new class 4 venues may be established.</p> <p>Existing class 4 venue</p> <p>Restrict the number of machines that may operate at a class 4 venue to 9 or current entitlement if less. Applications seeking to operate more than 9 machines will not be permitted.</p> <p>Class 4 venue mergers and relocation</p> <p>For relocation, restrict the number of machines that may operate at a class 4 venue to the number that was licenced for at the original venue.</p> <p>When considering an application for relocation or merger council may have regard to a range of criteria and apply these aggressively e.g.</p> <ul style="list-style-type: none"> • Characteristics of district, • Not to be located within 100m of kindergartens, early childhood centres, schools, places of worship and other community facilities. • The number of gaming machines permitted after merger will be 5/6th of the sum specified in all of the merged club class 4 venue licences at the time of application, to a maximum of 18 machines. • • Not to be located within 100m of other venues • The primary activity of the venue. <p>Relocation only if:</p> <ul style="list-style-type: none"> • Venue is physically incapable of being used for the purpose of the venue or • Building is deemed dangerous, insanitary or <p style="padding-left: 40px;">For example if the venue is destroyed by fire</p>

Option	Advantages	Disadvantages
Option 1 Status Quo	<ul style="list-style-type: none"> ▪ Consistent and known sinking lid approach is maintained. ▪ Enables balanced demand for entertainment while supporting control of harm. ▪ Gaming venues and gaming machine numbers cannot increase and may decrease. ▪ Maintains current level of community funding. ▪ Relocation and merger allows for control of location and other aspects. 	<ul style="list-style-type: none"> ▪ Reduction of gaming machines and venues dependant on natural attrition over time. ▪ Future rate of reduction is unknown.
Option 2. Existing venues, limits machine numbers and restrict mergers Not viable		<ul style="list-style-type: none"> • Legal opinion is that Council has no authority to prohibit mergers under the terms of the Gambling Act 2003
Option 3. Existing venues, limits of machine number with no relocation permitted	<ul style="list-style-type: none"> • Could enable reduction of gaming machine numbers at a faster rate than currently. (there have been no applications for relocation (or merger) in the last 3 years). 	<ul style="list-style-type: none"> • Could restrict and disadvantage the business of the primary function of the venue which could have implications for the Council • May prevent improvements by removing the ability to relocate. • May impact current Not for Profits funding by reducing machine numbers.
Option 4. Existing venues , limits of machine numbers with restrictive conditions for relocation and merger	<ul style="list-style-type: none"> ▪ Controlled relocation and merger still possible for events outside societies control e.g. fire ▪ Introduction of enhanced sinking lid which would speed up the reduction of gaming machine numbers and or venues. ▪ Allows impacts to be considered at time of application for merger or relocation. 	<ul style="list-style-type: none"> ▪ May impact current Not for Profits funding. ▪ Effectiveness of current policy unable to be assessed over long term. ▪ Restriction on relocation or merger may be seen as a disadvantage restricting operational development

5.0 CONSIDERATION

5.1 LEGAL

Council is required to consult under section 83 of the Local Government Act 2002 when reviewing their gambling Venues policy

6.0 CONCLUSION

Council's responsibility, along with the Department of Internal Affairs and Ministry of Health, is to enable class 4 and TAB venue gambling in a way that balances the demand for entertainment with the control of associated harm in a way that reflects current community opinion and district characteristics.

The viable options of choice provided in this report are felt to meet this objective.

Legal opinion indicates that option 2, that prohibits merger, is not viable.

Option 3 to prohibit relocation could conceivably reduce the ability for improved venue facilities to be developed.

Options 1 (existing policy) and 4 are considered the most viable options of choice. The existing policy provides a flexible approach whereas option 4 is more prescriptive.

The councils preferred option will have a strategic consultation document prepared for Council agreement at the earliest opportunity.

ATTACHMENTS

1. Changes to current policy for option 3 and 4.
2. List of venues
3. Location of venues
4. Current Policy

Attachment I. The following changes to the existing policy are provided for Options

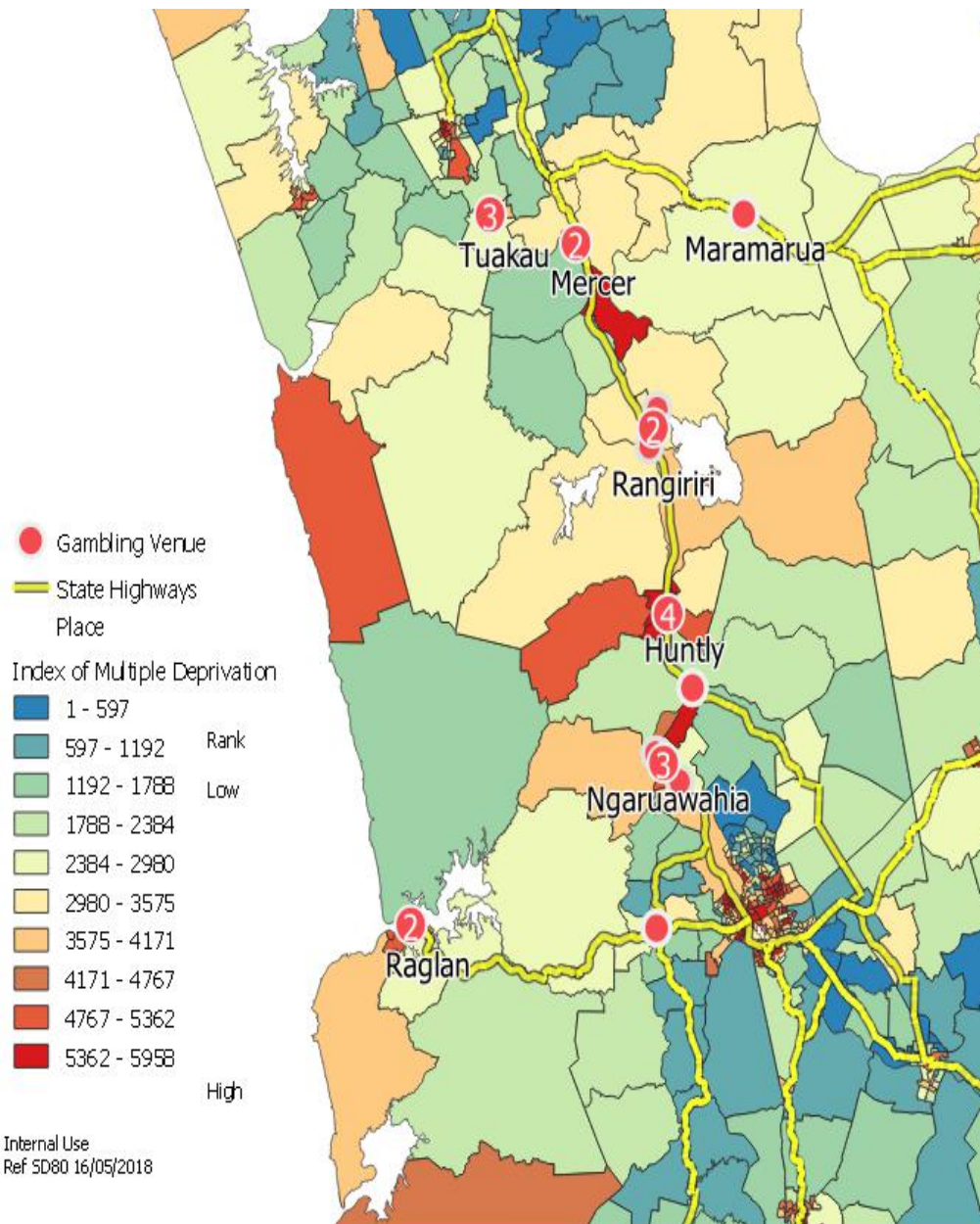
Option 1. Existing policy
Option 2 Existing venues, limits of machine number with no Merger- not viable.
Option 3. Existing venues, limits of machine number with no relocation permitted
<p>Remove existing sections 2.5.3 and 2.8.1 (i) (ii) and (iii) of current policy, and replace with</p> <p>New section 2.8.1 Council will not grant consent for relocation of a class 4 venue.</p>
Option 4 Existing venues, limits of machine numbers with restrictive conditions for relocation and merger
<p>New section 2.4.2 No new class 4 venue location will be permitted within 100m of Kinder gardens, early childhood centres, schools, places or worship, and other community facilities</p> <p>New section 2.4.3 No new class 4 venue locations will be permitted within 100m of another venue</p> <p>Replace existing section 2.6.3 with The maximum number of gaming machines that may be approved is 5/6 of the sum of the number of gaming machines specified in all of the merged club class 4 venue licences at the time of application, to a maximum of 18 machines.</p> <p>Add section 2.8.1 (iv) The existing revenue is physically incapable of being used for the purpose of the venue or the building is deemed dangerous or insanitary.</p> <p>Add to sections 2.6.1 and 2.8.1 the words 'Subject to sections 2.4.2 and 2.4.3'</p>

Attachment 2 List of venues with machine numbers in Waikato district

Name	Address	Current Machines	Max Machines
Delta Hotel	2 market Street, Ngaruawahia	18	18
Essex Arms	151 Main Street, Huntly	18	18
Harbour View Hotel	14 Bow Street, Raglan	18	18
Huntly & District Workingmen's club	Glasgow Street, Huntly	14	14
Huntly RSA	42 Williams Street, Huntly	9	9
McGinty's Turf & Sports bar	66 Main street, Huntly	18	18
Muddy waters Irish Bar	River Road, Mercer	18	18
Ngaruawahia Golf Club	Great South Road, Ngaruawahia	5	5
Ngaruawahia RSA memorial Club	4 market Street, Ngaruawahia	9	9
Podges place	2 Roose Road, Mercer	9	18
Raglan Club Inc	22-24 Bow Street, Raglan	18	18
Rangiriri Hotel	8 Rangiriri Road (Talbot St)	12	12
Red Fox Tavern	Monument Road, Rangiriri	12	18
Scoundrels n Seadogs	28 George Street, Tuakau	9	9
Taupiri Tavern	The Crescent, Taupiri	9	9
Te Kauwhata Trust Tavern	18 Main St, Te Kauwhata	6	6
The backyard bar & Eatery	1333 Horotiu Road RD9, Whatawhata	9	9
Tuakau Cosmopolitan Club	Cnr Madill & Carr St, Tuakau (11 Carr St)	14	18
Tuakau hotel -	3 George Street, Tuakau	18	18
Total		243	262

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Attachment 3. Location of current class 4 venues in Waikato district





Gambling Venues Policy 2015

Gambling Venues Policy 2015

Policy Owner: Regulatory Manager
 Policy Sponsor: General Manager Customer Support
 Approved By: Waikato District Council
 Approved Date: 13 April 2015
 Resolution Number:

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1. Introduction and Overview

- 1.1. The Gambling Act 2003 and Racing Act 2003 require local authorities to adopt a class 4 gambling venues policy and Board venue policy respectively.
- 1.2. Due to the similarities between the requirements for the two policies they have been consolidated into one Gambling Venues Policy.

2. Class 4 Venue Policy

2.1. Introduction and overview

2.1.1. The purpose of the Gambling Act 2003 is to:

- (i) control the growth of gambling; and
- (ii) prevent and minimise the harm caused by gambling, including problem gambling; and
- (iii) authorise some gambling and prohibit the rest; and
- (iv) facilitate responsible gambling; and
- (v) ensure the integrity and fairness of games; and
- (vi) limit opportunities for crime or dishonesty associated with gambling; and
- (vii) ensure that money from gambling benefits the community; and
- (viii) facilitate community involvement in decisions about the provision of gambling.

2.1.2. The Act places some responsibilities on territorial authorities in respect of class 4 gambling, and in particular to adopt a class 4 venue policy.

2.1.3. Class 4 gambling is gambling involving gaming machines and meeting certain other criteria.

2.1.4. Section 101 of the Act details what the policy may include. The policy -

- (i) must specify whether or not class 4 venues may be established in the territorial authority district and, if so, where they may be located; and
- (ii) may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue; and
- (iii) may include a relocation policy

2.1.5. In determining the policy Council may have regard to any relevant matters, including

- (i) the characteristics of the district and parts of the district;
- (ii) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
- (iii) the number of gaming machines that should be permitted to operate at any venue or class of venue;
- (iv) the cumulative effects of additional opportunities for gambling in the district;
- (v) how close any venue should be permitted to be to any other venue;

(vi) what the primary activity at any venue should be.

2.1.6. Any society wishing to establish a new venue or increase the number of electronic gaming machines at a venue must apply to the Council for territorial authority consent. The Council must consider the application in accordance with its class 4 venue policy and then either:

- (i) grant a consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue; or
- (ii) not grant a consent.

2.1.7. Any consent granted is permanent and cannot impose any conditions of operation of the venue. Venues are licensed and monitored by the Department of Internal Affairs.

2.2. Definitions for class 4 venue policy

Class 4 gambling means gambling that is not gambling of another class and that satisfies the following criteria:

- (a) the net proceeds from the gambling are applied to or distributed for authorised purposes:
 - (i) no commission is paid to, or received by, a person for conducting the gambling;
 - (ii) the gambling satisfies relevant game rules; and
- (b) gambling that utilises or involves a gaming machine; or
- (c) gambling categorised by the Secretary as class 4 gambling.

Class 4 gambling venue means a place used to conduct class 4 gambling

The Act means the Gambling Act 2003

2.3. Objectives of class 4 venue policy

2.3.1. The objectives of the class 4 venues policy are to:

- (i) Control the growth of gambling in the Waikato district;
- (ii) Minimize the harm caused by gambling, including problem gambling in the Waikato district;
- (iii) Reflect the views of local communities in respect of the provision of gambling in the Waikato district;
- (iv) Allow people who wish to participate in class 4 gambling in the Waikato district to do so.

2.4. Establishment of class 4 gambling venues in Waikato district

2.4.1. No further class 4 venues may be established in the Waikato district.

2.5. Maximum number of gaming machines operated at a class 4 venue

- 2.5.1. Subject to sections 2.5.3, 2.5.4 and 2.6 the maximum number of gaming machines that may be operated at a venue is nine in accordance with the Act.
- 2.5.2. Existing venues operating fewer than nine gaming machines are restricted to the number for which they were licensed at the time this policy comes into force.
- 2.5.3. The maximum number of gaming machines that may be operated at a venue that relocates in accordance with the relocation policy provided for in section 2.8 is the number for which they were licensed at the original venue as provided in section 97A(2) of the Act.
- 2.5.4. Where two or more clubs propose to merge and relocate to a new previously unlicensed venue the maximum number of gaming machines that may be operated at the new venue is that determined under section 2.6.

2.6. Applications under section 95 of the Act by clubs merging

- 2.6.1. Applications seeking Ministerial discretion pursuant to section 95 of the Act to increase the number of gaming machines at a club venue to greater than nine as a result of clubs merging may be approved at Council's discretion.
- 2.6.2. In considering any application for consent to increase the number of gaming machines to greater than nine at a merging club venue, Council shall have regard to the criteria detailed in section 95(1) of the Act.
- 2.6.3. The maximum number of gaming machines that may be approved is the lesser of:
 - (i) 18 machines; or
 - (ii) The sum of the number of gaming machines specified in all of the merged clubs class 4 venue licences at the time of the application.

2.7. Applications under section 96 of the Act by clubs to operate up to 18 gaming machines

- 2.7.1. Applications seeking Ministerial discretion pursuant to Section 96 of the Act to permit more than nine electronic gaming machines at a club venue will not be approved.

2.8. Relocation Policy

- 2.8.1. Council will grant consent in respect of a venue where the venue is intended to replace an existing venue within the district to which a class 4 venue licence applies only in the following circumstances:
 - (i) The proposed new venue has been newly constructed or refurbished for the purposes of the primary activity of the venue;
 - (ii) Any club or two or more clubs merging that propose moving to newly constructed or refurbished premises must be relocated within the same community of interest as the original club or clubs;
 - (iii) For any other venue the proposed new venue must be located in an area with a deprivation index at least the same or lower than the existing venue.

2.9. Application Forms

2.9.1. Applications for consent must be made on Council's approved form and must provide:

- (i) Name and address of the society
- (ii) Contact details
- (iii) Street address of the venue
- (iv) Details and evidence of the operation of the venue and in the case of a club, details of the membership and activities
- (v) A scale site plan detailing both gambling and other activities proposed for the venue, including details of each floor of the venue, where gaming machines are to be located and the size of the area the gaming machines will occupy
- (vi) The number of gaming machines proposed.

2.10. Application Fees

2.10.1. Application fees are set by Council resolution and include consideration of:

- (i) Processing class 4 gambling consent applications including any consultation and hearings involved
- (ii) Reviewing Council's class 4 venue policy.

2.11. Policy Review

2.11.1. Pursuant to section 102 of the Act Council must review its class 4 venue policy within three years of its adoption and within three years after each review.

3. Board Venue Policy

3.1. Introduction and overview

3.1.1. The purpose of the Racing Act 2003 is:

- (i) to provide effective governance arrangements for the racing industry; and
- (ii) to facilitate betting on galloping, harness, and greyhound races, and other sporting events; and
- (iii) to promote the long-term viability of New Zealand racing.

3.1.2. The Act places responsibilities on territorial authorities to adopt a policy on Board venues where race and sports betting may be conducted.

3.1.3. Section 65D of the Act details what the policy may include. The policy must specify whether or not new Board venues may be established in the territorial authority district and, if so, where they may be located.

3.1.4. In determining the policy Council may have regard to any relevant matter, including:

- (i) the characteristics of the district and parts of the district;
- (ii) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
- (iii) the cumulative effects of additional opportunities for gambling in the district.

3.1.5. If the Board wishes to establish a Board venue it must apply to the Council for a territorial authority consent. The Council must consider the application in accordance with its Board venue policy and then either grant or refuse a consent.

3.1.6. Any consent granted is permanent and cannot impose any conditions of operation of the venue. Venues are licensed and monitored by the Department of Internal Affairs.

3.2. Definitions for Board venue policy

Board	means the New Zealand Racing Board established under section 7 of the Act
Board venue	means premises that are owned or leased by the Board and where the main business carried on at the premises is providing racing betting or sports betting services under the Act
the Act	means the Racing Act 2003

3.3. Objectives of Board venue policy

3.3.1. The objectives of the Board venue policy are to:

- (i) Control the growth of gambling in the Waikato district;
- (ii) Minimize the harm caused by gambling, including problem gambling in the Waikato district;
- (iii) Reflect the views of local communities in respect of the provision of gambling in the Waikato district.

3.4. Establishment of Board venues in Waikato district

3.4.1. Council may in its discretion permit a new TAB Board venue to be established in the Waikato district.

3.4.2. In considering an application for a TAB Board venue, Council shall have regard to any undertaking given by the New Zealand Racing Board to remove TAB terminals (including self-service terminals) from hotels, clubs and/or pubs in the township in which the new TAB Board venue is proposed.

3.5. Location of Board venues

3.5.1 TAB Board venues shall be restricted to areas zoned under the Waikato District Plan to allow commercial activities as permitted activities.

3.6. Application Forms

3.6.1. Applications for consent must be made on Council's approved form and must provide:

- (i) Name and address of the Board
- (ii) Contact details
- (iii) Street address of the venue
- (iv) A scale site plan showing the location of the venue

3.7. Application Fees

3.7.1. Application fees are set by Council resolution and include consideration of:

- (i) Processing Board venue consent applications including any consultation and hearings involved
- (ii) Reviewing Council's Board venue policy.

3.8. Policy Review

3.8.1. Pursuant to section 65E of the Act Council must review its Board venue policy within three years of its adoption and within three years after each review.

Gambling Venue Policy review ; Option 3.

Gambling Venues Policy 2015

Policy Owner:	Regulatory Manager
Policy Sponsor:	General Manager Customer Support
Approved By:	Waikato District Council
Approved Date:	13 April 2015
Resolution Number:	WDC1504/06/1/1/3
Effective Date:	April 2015
Next Review Date:	April 2018

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I. Introduction and Overview

- 1.1. The Gambling Act 2003 and Racing Act 2003 require local authorities to adopt a class 4 gambling venues policy and Board venue policy respectively.
- 1.2. Due to the similarities between the requirements for the two policies they have been consolidated into one Gambling Venues Policy.

2. Class 4 Venue Policy

2.1. Introduction and overview

2.1.1. The purpose of the Gambling Act 2003 is to:

- (i) control the growth of gambling; and
- (ii) prevent and minimise the harm caused by gambling, including problem gambling; and
- (iii) authorise some gambling and prohibit the rest; and
- (iv) facilitate responsible gambling; and
- (v) ensure the integrity and fairness of games; and
- (vi) limit opportunities for crime or dishonesty associated with gambling; and
- (vii) ensure that money from gambling benefits the community; and
- (viii) facilitate community involvement in decisions about the provision of gambling.

2.1.2. The Act places some responsibilities on territorial authorities in respect of class 4 gambling, and in particular to adopt a class 4 venue policy.

2.1.3. Class 4 gambling is gambling involving gaming machines and meeting certain other criteria.

2.1.4. Section 101 of the Act details what the policy may include. The policy -

- (i) must specify whether or not class 4 venues may be established in the territorial authority district and, if so, where they may be located; and
- (ii) may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue; and
- (iii) may include a relocation policy

2.1.5. In determining the policy Council may have regard to any relevant matters, including

- (i) the characteristics of the district and parts of the district;
- (ii) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
- (iii) the number of gaming machines that should be permitted to operate at any venue or class of venue;
- (iv) the cumulative effects of additional opportunities for gambling in the district;
- (v) how close any venue should be permitted to be to any other venue;

(vi) what the primary activity at any venue should be.

2.1.6. Any society wishing to establish a new venue or increase the number of electronic gaming machines at a venue must apply to the Council for territorial authority consent. The Council must consider the application in accordance with its class 4 venue policy and then either:

- (i) grant a consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue; or
- (ii) not grant a consent.

2.1.7. Any consent granted is permanent and cannot impose any conditions of operation of the venue. Venues are licensed and monitored by the Department of Internal Affairs.

2.2. Definitions for class 4 venue policy

Class 4 gambling means gambling that is not gambling of another class and that satisfies the following criteria:

- (a) the net proceeds from the gambling are applied to or distributed for authorised purposes:
 - (i) no commission is paid to, or received by, a person for conducting the gambling;
 - (ii) the gambling satisfies relevant game rules; and
- (b) gambling that utilises or involves a gaming machine; or
- (c) gambling categorised by the Secretary as class 4 gambling.

Class 4 gambling venue means a place used to conduct class 4 gambling

The Act means the Gambling Act 2003

2.3. Objectives of class 4 venue policy

2.3.1. The objectives of the class 4 venues policy are to:

- (i) Control the growth of gambling in the Waikato district;
- (ii) Minimize the harm caused by gambling, including problem gambling in the Waikato district;
- (iii) Reflect the views of local communities in respect of the provision of gambling in the Waikato district;
- (iv) Allow people who wish to participate in class 4 gambling in the Waikato district to do so.

2.4. Establishment of class 4 gambling venues in Waikato district

2.4.1. No further class 4 venues may be established in the Waikato district.

2.5. Maximum number of gaming machines operated at a class 4 venue

- 2.5.1. Subject to sections 2.5.3, 2.5.4 and 2.6 the maximum number of gaming machines that may be operated at a venue is nine in accordance with the Act.
- 2.5.2. Existing venues operating fewer than nine gaming machines are restricted to the number for which they were licensed at the time this policy comes into force.

~~2.5.3. The maximum number of gaming machines that may be operated at a venue that relocates in accordance with the relocation policy provided for in section 2.8 is the number for which they were licensed at the original venue as provided in section 97A(2) of the Act.~~

~~2.5.4.2.5.3.~~ Where two or more clubs propose to merge and relocate to a new previously unlicensed venue the maximum number of gaming machines that may be operated at the new venue is that determined under section 2.6.

2.6. Applications under section 95 of the Act by clubs merging

- 2.6.1. Applications seeking Ministerial discretion pursuant to section 95 of the Act to increase the number of gaming machines at a club venue to greater than nine as a result of clubs merging may be approved at Council's discretion.
- 2.6.2. In considering any application for consent to increase the number of gaming machines to greater than nine at a merging club venue, Council shall have regard to the criteria detailed in section 95(1) of the Act.
- 2.6.3. The maximum number of gaming machines that may be approved is the lesser of:
- (i) 18 machines; or
 - (ii) The sum of the number of gaming machines specified in all of the merged clubs class 4 venue licences at the time of the application.

2.7. Applications under section 96 of the Act by clubs to operate up to 18 gaming machines

- 2.7.1. Applications seeking Ministerial discretion pursuant to Section 96 of the Act to permit more than nine electronic gaming machines at a club venue will not be approved.

2.8. Relocation Policy

~~2.8.1. Council will not grant consent for relocation of a class 4 venue.~~

~~2.8.1. Council will grant consent in respect of a venue where the venue is intended to replace an existing venue within the district to which a class 4 venue licence applies only in the following circumstances:~~

- ~~(i) The proposed new venue has been newly constructed or refurbished for the purposes of the primary activity of the venue;~~

- ~~(ii) Any club or two or more clubs merging that propose moving to newly constructed or refurbished premises must be relocated within the same community of interest as the original club or clubs;~~
- ~~(iii) For any other venue the proposed new venue must be located in an area with a deprivation index at least the same or lower than the existing venue.~~

2.9. Application Forms

2.9.1. Applications for consent must be made on Council's approved form and must provide:

- (i) Name and address of the society
- (ii) Contact details
- (iii) Street address of the venue
- (iv) Details and evidence of the operation of the venue and in the case of a club, details of the membership and activities
- (v) A scale site plan detailing both gambling and other activities proposed for the venue, including details of each floor of the venue, where gaming machines are to be located and the size of the area the gaming machines will occupy
- (vi) The number of gaming machines proposed.

2.10. Application Fees

2.10.1. Application fees are set by Council resolution and include consideration of:

- (i) Processing class 4 gambling consent applications including any consultation and hearings involved
- (ii) Reviewing Council's class 4 venue policy.

2.11. Policy Review

2.11.1. Pursuant to section 102 of the Act Council must review its class 4 venue policy within three years of its adoption and within three years after each review.

3. Board Venue Policy

3.1. Introduction and overview

3.1.1. The purpose of the Racing Act 2003 is:

- (i) to provide effective governance arrangements for the racing industry; and
- (ii) to facilitate betting on galloping, harness, and greyhound races, and other sporting events; and
- (iii) to promote the long-term viability of New Zealand racing.

3.1.2. The Act places responsibilities on territorial authorities to adopt a policy on Board venues where race and sports betting may be conducted.

3.1.3. Section 65D of the Act details what the policy may include. The policy must specify whether or not new Board venues may be established in the territorial authority district and, if so, where they may be located.

3.1.4. In determining the policy Council may have regard to any relevant matter, including:

- (i) the characteristics of the district and parts of the district;
- (ii) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
- (iii) the cumulative effects of additional opportunities for gambling in the district.

3.1.5. If the Board wishes to establish a Board venue it must apply to the Council for a territorial authority consent. The Council must consider the application in accordance with its Board venue policy and then either grant or refuse a consent.

3.1.6. Any consent granted is permanent and cannot impose any conditions of operation of the venue. Venues are licensed and monitored by the Department of Internal Affairs.

3.2. Definitions for Board venue policy

Board	means the New Zealand Racing Board established under section 7 of the Act
Board venue	means premises that are owned or leased by the Board and where the main business carried on at the premises is providing racing betting or sports betting services under the Act
the Act	means the Racing Act 2003

3.3. Objectives of Board venue policy

3.3.1. The objectives of the Board venue policy are to:

- (i) Control the growth of gambling in the Waikato district;
- (ii) Minimize the harm caused by gambling, including problem gambling in the Waikato district;
- (iii) Reflect the views of local communities in respect of the provision of gambling in the Waikato district.

3.4. Establishment of Board venues in Waikato district

3.4.1. Council may in its discretion permit a new TAB Board venue to be established in the Waikato district.

3.4.2. In considering an application for a TAB Board venue, Council shall have regard to any undertaking given by the New Zealand Racing Board to remove TAB terminals (including self-service terminals) from hotels, clubs and/or pubs in the township in which the new TAB Board venue is proposed.

3.5. Location of Board venues

3.5.1 TAB Board venues shall be restricted to areas zoned under the Waikato District Plan to allow commercial activities as permitted activities.

3.6. Application Forms

3.6.1. Applications for consent must be made on Council's approved form and must provide:

- (i) Name and address of the Board
- (ii) Contact details
- (iii) Street address of the venue
- (iv) A scale site plan showing the location of the venue

3.7. Application Fees

3.7.1. Application fees are set by Council resolution and include consideration of:

- (i) Processing Board venue consent applications including any consultation and hearings involved
- (ii) Reviewing Council's Board venue policy.

3.8. Policy Review

3.8.1. Pursuant to section 65E of the Act Council must review its Board venue policy within three years of its adoption and within three years after each review.

Gambling Venue Policy review: Option 4

Gambling Venues Policy 2015

Policy Owner:	Regulatory Manager
Policy Sponsor:	General Manager Customer Support
Approved By:	Waikato District Council
Approved Date:	13 April 2015
Resolution Number:	WDC1504/06/1/1/3
Effective Date:	April 2015
Next Review Date:	April 2018

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I. Introduction and Overview

- 1.1. The Gambling Act 2003 and Racing Act 2003 require local authorities to adopt a class 4 gambling venues policy and Board venue policy respectively.
- 1.2. Due to the similarities between the requirements for the two policies they have been consolidated into one Gambling Venues Policy.

2. Class 4 Venue Policy

2.1. Introduction and overview

2.1.1. The purpose of the Gambling Act 2003 is to:

- (i) control the growth of gambling; and
- (ii) prevent and minimise the harm caused by gambling, including problem gambling; and
- (iii) authorise some gambling and prohibit the rest; and
- (iv) facilitate responsible gambling; and
- (v) ensure the integrity and fairness of games; and
- (vi) limit opportunities for crime or dishonesty associated with gambling; and
- (vii) ensure that money from gambling benefits the community; and
- (viii) facilitate community involvement in decisions about the provision of gambling.

2.1.2. The Act places some responsibilities on territorial authorities in respect of class 4 gambling, and in particular to adopt a class 4 venue policy.

2.1.3. Class 4 gambling is gambling involving gaming machines and meeting certain other criteria.

2.1.4. Section 101 of the Act details what the policy may include. The policy -

- (i) must specify whether or not class 4 venues may be established in the territorial authority district and, if so, where they may be located; and
- (ii) may specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue; and
- (iii) may include a relocation policy

2.1.5. In determining the policy Council may have regard to any relevant matters, including

- (i) the characteristics of the district and parts of the district;
- (ii) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
- (iii) the number of gaming machines that should be permitted to operate at any venue or class of venue;
- (iv) the cumulative effects of additional opportunities for gambling in the district;
- (v) how close any venue should be permitted to be to any other venue;

(vi) what the primary activity at any venue should be.

2.1.6. Any society wishing to establish a new venue or increase the number of electronic gaming machines at a venue must apply to the Council for territorial authority consent. The Council must consider the application in accordance with its class 4 venue policy and then either:

- (i) grant a consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue; or
- (ii) not grant a consent.

2.1.7. Any consent granted is permanent and cannot impose any conditions of operation of the venue. Venues are licensed and monitored by the Department of Internal Affairs.

2.2. Definitions for class 4 venue policy

Class 4 gambling means gambling that is not gambling of another class and that satisfies the following criteria:

- (a) the net proceeds from the gambling are applied to or distributed for authorised purposes:
 - (i) no commission is paid to, or received by, a person for conducting the gambling;
 - (ii) the gambling satisfies relevant game rules; and
- (b) gambling that utilises or involves a gaming machine; or
- (c) gambling categorised by the Secretary as class 4 gambling.

Class 4 gambling venue means a place used to conduct class 4 gambling

The Act means the Gambling Act 2003

2.3. Objectives of class 4 venue policy

2.3.1. The objectives of the class 4 venues policy are to:

- (i) Control the growth of gambling in the Waikato district;
- (ii) Minimize the harm caused by gambling, including problem gambling in the Waikato district;
- (iii) Reflect the views of local communities in respect of the provision of gambling in the Waikato district;
- (iv) Allow people who wish to participate in class 4 gambling in the Waikato district to do so.

2.4. Establishment of class 4 gambling venues in Waikato district

2.4.1. No further class 4 venues may be established in the Waikato district.

2.4.2. No new class 4 venues will be permitted within 100m of Kindergartens, early childhood centres, schools, places of worship, and other community facilities.

2.4.1.2.4.3. No new class 4 venues will be permitted within 100m of another class 4 venue.

2.5. Maximum number of gaming machines operated at a class 4 venue

- 2.5.1. Subject to sections 2.5.3, 2.5.4 and 2.6 the maximum number of gaming machines that may be operated at a venue is nine in accordance with the Act.
- 2.5.2. Existing venues operating fewer than nine gaming machines are restricted to the number for which they were licensed at the time this policy comes into force.
- 2.5.3. The maximum number of gaming machines that may be operated at a venue that relocates in accordance with the relocation policy provided for in section 2.8 is the number for which they were licensed at the original venue as provided in section 97A(2) of the Act.
- 2.5.4. Where two or more clubs propose to merge and relocate to a new previously unlicensed venue the maximum number of gaming machines that may be operated at the new venue is that determined under section 2.6.

2.6. Applications under section 95 of the Act by clubs merging

- 2.6.1. Subject to sections 2.4.2 and 2.4.3 a Applications seeking Ministerial discretion pursuant to section 95 of the Act to increase the number of gaming machines at a club venue to greater than nine as a result of clubs merging may be approved at Council's discretion.

- 2.6.2. In considering any application for consent to increase the number of gaming machines to greater than nine at a merging club venue, Council shall have regard to the criteria detailed in section 95(1) of the Act.

- ~~2.6.2.2.6.3.~~ The maximum number of gaming machines that may be approved is 5/6 of the sum of the number of gaming machines specified in all of the merged club class 4 venue licences at the time of application, to a maximum of 18 machines.

- ~~2.6.3.~~ The maximum number of gaming machines that may be approved is the lesser of:

- ~~(i) 18 machines; or~~

- ~~(ii) The sum of the number of gaming machines specified in all of the merged clubs class 4 venue licences at the time of the application.~~

2.7. Applications under section 96 of the Act by clubs to operate up to 18 gaming machines

- 2.7.1. Applications seeking Ministerial discretion pursuant to Section 96 of the Act to permit more than nine electronic gaming machines at a club venue will not be approved.

2.8. Relocation Policy

- 2.8.1. Subject to sections 2.4.2 and 2.4.3 Council will grant consent in respect of a venue where the venue is intended to replace an existing venue within the district to which a class 4 venue licence applies only in the following circumstances:

- (i) The proposed new venue has been newly constructed or refurbished for the purposes of the primary activity of the venue;

(ii) Any club or two or more clubs merging that propose moving to newly constructed or refurbished premises must be relocated within the same community of interest as the original club or clubs;

(iii) For any other venue the proposed new venue must be located in an area with a deprivation index at least the same or lower than the existing venue.

~~(iii)~~(iv) The existing venue is physically incapable of being used for the purpose of the venue or the building is deemed dangerous or insanitary.

2.9. Application Forms

2.9.1. Applications for consent must be made on Council's approved form and must provide:

- (i) Name and address of the society
- (ii) Contact details
- (iii) Street address of the venue
- (iv) Details and evidence of the operation of the venue and in the case of a club, details of the membership and activities
- (v) A scale site plan detailing both gambling and other activities proposed for the venue, including details of each floor of the venue, where gaming machines are to be located and the size of the area the gaming machines will occupy
- (vi) The number of gaming machines proposed.

2.10. Application Fees

2.10.1. Application fees are set by Council resolution and include consideration of:

- (i) Processing class 4 gambling consent applications including any consultation and hearings involved
- (ii) Reviewing Council's class 4 venue policy.

2.11. Policy Review

2.11.1. Pursuant to section 102 of the Act Council must review its class 4 venue policy within three years of its adoption and within three years after each review.

3. Board Venue Policy

3.1. Introduction and overview

3.1.1. The purpose of the Racing Act 2003 is:

- (i) to provide effective governance arrangements for the racing industry; and
- (ii) to facilitate betting on galloping, harness, and greyhound races, and other sporting events; and
- (iii) to promote the long-term viability of New Zealand racing.

3.1.2. The Act places responsibilities on territorial authorities to adopt a policy on Board venues where race and sports betting may be conducted.

3.1.3. Section 65D of the Act details what the policy may include. The policy must specify whether or not new Board venues may be established in the territorial authority district and, if so, where they may be located.

3.1.4. In determining the policy Council may have regard to any relevant matter, including:

- (i) the characteristics of the district and parts of the district;
- (ii) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities;
- (iii) the cumulative effects of additional opportunities for gambling in the district.

3.1.5. If the Board wishes to establish a Board venue it must apply to the Council for a territorial authority consent. The Council must consider the application in accordance with its Board venue policy and then either grant or refuse a consent.

3.1.6. Any consent granted is permanent and cannot impose any conditions of operation of the venue. Venues are licensed and monitored by the Department of Internal Affairs.

3.2. Definitions for Board venue policy

Board	means the New Zealand Racing Board established under section 7 of the Act
Board venue	means premises that are owned or leased by the Board and where the main business carried on at the premises is providing racing betting or sports betting services under the Act
the Act	means the Racing Act 2003

3.3. Objectives of Board venue policy

3.3.1. The objectives of the Board venue policy are to:

- (i) Control the growth of gambling in the Waikato district;
- (ii) Minimize the harm caused by gambling, including problem gambling in the Waikato district;
- (iii) Reflect the views of local communities in respect of the provision of gambling in the Waikato district.

3.4. Establishment of Board venues in Waikato district

3.4.1. Council may in its discretion permit a new TAB Board venue to be established in the Waikato district.

3.4.2. In considering an application for a TAB Board venue, Council shall have regard to any undertaking given by the New Zealand Racing Board to remove TAB terminals (including self-service terminals) from hotels, clubs and/or pubs in the township in which the new TAB Board venue is proposed.

3.5. Location of Board venues

3.5.1 TAB Board venues shall be restricted to areas zoned under the Waikato District Plan to allow commercial activities as permitted activities.

3.6. Application Forms

3.6.1. Applications for consent must be made on Council's approved form and must provide:

- (i) Name and address of the Board
- (ii) Contact details
- (iii) Street address of the venue
- (iv) A scale site plan showing the location of the venue

3.7. Application Fees

3.7.1. Application fees are set by Council resolution and include consideration of:

- (i) Processing Board venue consent applications including any consultation and hearings involved
- (ii) Reviewing Council's Board venue policy.

3.8. Policy Review

3.8.1. Pursuant to section 65E of the Act Council must review its Board venue policy within three years of its adoption and within three years after each review.

Open Meeting

To	Policy & Regulatory Committee
From	Gavin Ion Chief Executive
Date	8 June 2018
Chief Executive Approved	Y
Reference #	GOV1318
Report Title	Chief Executive's Business Plan

1. EXECUTIVE SUMMARY

The Chief Executive's Business Plan is a summary of progress on the Chief Executive's Performance Agreement. This report covers 2017/2018 items.

2. RECOMMENDATION

THAT the report from the Chief Executive be received.

3. BACKGROUND

The Chief Executive's Business Plan is a summary of progress on a number of issues targeted by Councillors.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

The Plan is a summary of progress on specific issues. It enables staff and Councillors to focus on the big issues and ensures that attention is given to those things that really matter. The Plan is in line with the Chief Executive's Performance Agreement for 2017/2018.

4.2 OPTIONS

The list of projects has been agreed by Council.

The Plan is consistent with the Chief Executive's Performance Agreement approved by Council.

5. CONSIDERATION

5.1 FINANCIAL

The survey of key stakeholders has cost approximately \$3,500 plus GST.

5.2 LEGAL

As part of undertaking the work detailed in this plan, Council needs to ensure that the approach taken is consistent with the Purpose of Local Government.

In other words, to meet the current and future needs of communities for good quality local infrastructure, local public services and performance of regulatory functions in a way that is most cost-effective for households and businesses.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

This report contains the strategic issues that Council is focused on. The Chief Executive's Business Plan has been updated to align to the Chief Executive's Performance Agreement.

Iwi and Tangata Whenua have been, or will be consulted on at least some of the key projects or initiatives referred to in the report. Iwi were involved as part of the survey of key stakeholders.

Iwi have also been engaging in the waters management project and with Council and government on the Hamilton to Auckland Corridor.

The projects in the list link to at least one community outcome or wellbeing. They also link to at least one LTP key goal.

The list has been updated in line with the Chief Executive's Performance Agreement for 2017/2018.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

The report does not trigger any concerns about significance of the projects being discussed.

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	The report provides a summary of what progress is being made on the various issues. It is for information at this stage of the year.				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
		✓	Internal
	✓		Community Boards/Community Committees
	✓		Waikato-Tainui/Local iwi

	✓		Households
	✓		Business
			Other Please Specify

The assessment depends on the issues involved.

6. CONCLUSION

The schedule summarises progress on the key issues agreed with Council.

7. ATTACHMENTS

Chief Executive's KPI worksheet.

Chief Executive's KPIs

Key project/priority	Key deliverables/KPIs		Progress	Final Achievement Met/Not Met
1. Delivery and achievement of Annual Plan (covers normal business activities and linked to the current LTP key goals of affordability, economic development and community engagement)	1.1	Annual Plan work programmes are completed on time, cancelled, agreed for deferral or carried forward.	<p>Work programmes are planned with a number of projects underway.</p> <p>Resourcing and workloads have been challenges this year. In line with discussions about the need to pause and refresh, carry forwards will rise this financial year.</p> <p>Some projects such as the Huntly Wastewater Treatment upgrade are delayed as a result of work undertaken on the Housing Infrastructure Fund proposal.</p>	
	1.2	The Annual Plan is completed within agreed budget and variations approved by Council.	<p>Work is progressing satisfactorily.</p> <p>Some delays in work programmes are being experienced due to resourcing challenges.</p>	
	1.3	80% of the LTP/Annual Plan KPIs are achieved.	<p>Quarterly reports are provided to the Strategy & Finance Committee on progress.</p> <p>At this stage the overall KPIs are behind the target.</p>	
	1.4	<ul style="list-style-type: none"> ▪ Refresh economic development implementation plan by 30 September. ▪ The agreed projects in the Implementation Plan are delivered by 30 June 2018. 	<p>The plan was reviewed and an update provided in September. A verbal update was provided to the November Strategy & Finance Committee.</p> <p>On track.</p>	
	1.5	Provide evidence that delivery of services is providing value for money.	<p>Work has been undertaken with the Waikato District Alliance to confirm the value for money of the arrangement.</p> <p>On track.</p>	
2. Continued improvements in customer service (Linked to the current	2.1	Completion of more than 90% of service requests within set timeframes for the year.	87.6 % of service requests were completed on time for the first eleven months of the year.	

Key project/priority	Key deliverables/KPIs		Progress	Final Achievement Met/Not Met
LTP goal of community engagement).			Slightly behind target.	
	2.2	Overdue service requests are less than 110 on average for the year.	The average number of overdue service requests outstanding for the first eleven months of the year were 102. On track. The total overdue service requests (against completion target) has averaged 115 over the last 12 months to the end of May 2018.	
	2.3	Develop a customer strategy by 30 June 2018.	An internal project on Simplifying the Customer Experience provides the backdrop for this strategy. The work is underway and is one of the work streams operating in preparing our 100 day plan to implement the Council vision (Liveable, Thriving and Connected Communities). A workshop has been scheduled in late June to socialise the strategy. On track.	
3. Partnerships, relationships, regional initiatives and engagement with external stakeholders (linked to current LTP key goals of economic development and community engagement)	3.1	<ul style="list-style-type: none"> ▪ Undertake a survey of key stakeholders including developers, community organisations, Community Boards/Committees, Iwi, key regional contacts and other council contacts. ▪ Develop an action plan by 30 April 2018 in relation to improvements identified by the feedback. 	Agreement reached with the Chief Executive's Performance Review subcommittee around the respondents to the survey. The survey has been undertaken but there has been difficulty in respondents completing the documentation. Delayed. The action plan will be completed in mid June.	
	3.2	Provide evidence of collaboration with NZTA to deliver key outcomes.	The Chief Executive has met on a number of occasions with NZTA to reinforce the relationship. A meeting is scheduled for late June.	

Key project/priority	Key deliverables/KPIs		Progress	Final Achievement Met/Not Met
			<p>There is mutual respect and a desire to find collective outcomes.</p> <p>On track.</p>	
	3.3	Strategic Plan for the Waikato Building Cluster Group is developed and on-track by 30 June 2018.	<p>The plan was signed off by the Waikato Building Cluster Advisory Group on 28 July.</p> <p>The implementation plan is progressing. Customer research is the first component. The second component is a procurement process for an online building consent system, which is underway.</p> <p>Determining the skills and training needs of our building quality staff throughout the cluster is at a tender stage.</p> <p>On track.</p>	
	3.4	Subject to the agreement of the Governance Group and associated parties, the proposal regarding waters management is submitted to Council for consideration by 30 September.	<p>Council is consulting with the public on a Waters Governance Board model.</p> <p>Council has conducted its LTP hearings and analysed the submissions. A formal decision will be made on 27 June.</p> <p>The time slippage reflects the different approach taken by other councils. As a result, Council has been forced to reconsider its approach.</p> <p>On track.</p>	
	3.5	Provide evidence of community engagement on key initiatives.	<p>The Community Boards and Community Committees were fully engaged in the LTP process.</p> <p>Waikato-Tainui were fully engaged in the Waters Management process.</p> <p>The District Plan review process featured extensive engagement, including 18 community drop in and feedback sessions.</p> <p>The Ngaruawahia Community Board, Council, Kiwi Rail, School Principals and community leaders are</p>	

Key project/priority	Key deliverables/KPIs		Progress	Final Achievement Met/Not Met
			working together around safety on the Ngaruawahia rail bridge.	
4. Staff and Culture (including leadership, engagement, retention, zero harm and linked to the Long Term Plan key goals of economic development and community engagement).	4.1	Leadership – The Staff Survey indicates a positive movement of 2% or more in relation to the leadership provided by senior management. (I have confidence in the senior leadership of this organisation).	The independent survey company withdrew the survey but have now agreed to undertake this during June.	
	4.2	The Engagement Index shows a positive movement of 2% or more in the Annual Staff Survey.	The independent survey company withdrew the survey but have now agreed to undertake this during June.	
	4.3	Performance on key HR measures is as follows: <ul style="list-style-type: none"> ▪ Staff movement due to general turnover is less than 16%. ▪ Leave balances reduce by 5% or more by 30 June. ▪ Sick leave taken reduces by 5% or more by 30 June. ▪ The score on the survey question “This organisation cares about the well-being of its people” increases by 2% or more. 	The measures are annual measures that will be determined later in the year. <p>Some indicators are:</p> <ul style="list-style-type: none"> ▪ Staff turnover for the 12 months to 28 February was 14.0%. ▪ We have reduced the number of staff with high levels of annual leave. ▪ Sick leave over the past nine months has averaged 1667 hours per month (previous year 1704.34). It is unclear without further analysis whether this is a concern or not. ▪ Sick leave also covers domestic leave and we are actively encouraging staff (from a zero harm perspective), not to bring sickness to work. ▪ Survey to be completed in June. On track.	

Key project/priority	Key deliverables/KPIs		Progress	Final Achievement Met/Not Met
	4.4	An updated Strategic Plan for Zero Harm is prepared and approved by Council by 31 August 2017.	<p>The Strategic Plan has been updated and reported to Council in August.</p> <p>A further refinement was prepared in early 2018 and presented to Council. There is a focus on contract management.</p> <p>Completed.</p>	
	4.5	The Zero Harm Strategic Plan actions for 2017/18 are completed by 30 June.	<p>The actions are progressing.</p> <p>New regulations and several events have required a rethink of priorities. Extra resourcing is necessary due to immediate challenges.</p> <p>On track.</p>	

Open Meeting

To	Policy & Regulatory Committee
From	Gavin Ion Chief Executive
Date	8 June 2018
Chief Executive Approved	Y
Reference #	GOV1318
Report Title	2018 Meeting Calendar

1. EXECUTIVE SUMMARY

A monthly report is provided on the meeting calendar. Recent changes are incorporated so that Councillors are kept up to date.

2. RECOMMENDATION

THAT the report from the Chief Executive be received.

3. BACKGROUND

Council has already approved a meeting timetable for 2018. It was agreed that I would provide a monthly update on the meeting calendar including as much relevant information as possible.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

As discussed, Councillors should rely on the latest calendar and dispense with previous copies.

The workshop schedule for the next two months is as follows:

JUNE 2018

Tuesday 19 June	Tuesday 26 June
<ul style="list-style-type: none"> ▪ 9am – 12.30pm: Policy & Regulatory Committee ▪ 1pm – 3pm: Councillor Workshop – Iwi Consultation 	<ul style="list-style-type: none"> ▪ 9am – 12.30pm – Infrastructure Committee ▪ 1pm – 5pm: Councillor Workshop – District Plan Review

Wednesday 27 June	
<ul style="list-style-type: none"> ▪ 9am – 12.30pm: Strategy & Finance Committee ▪ 1pm – 2pm: Extraordinary Council meeting ▪ 2pm – 2.30pm: Councillor Workshop - Library Reciprocal Agreement discussion ▪ 2.30pm – 3.00pm: Councillor Workshop - Customer Experience Strategy 	

JULY 2018

Monday 9 July	
<ul style="list-style-type: none"> ▪ 12.00pm – 1.15pm: Councillor only time (including lunch) ▪ 1.15pm – 3.15pm: Council Meeting 	

Council could choose to approve the calendar or not. The idea of providing a monthly update is beneficial because there are a number of changes that arise on a regular basis. The calendars provide the most up to date information that we have but will not take account of short notice events.

5. CONSIDERATION

5.1 FINANCIAL

Nil.

5.2 LEGAL

Nil.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

The report is about keeping Councillors informed and up to date with regards to forthcoming meetings and workshops. Items discussed will cover a range of community outcomes and one or more of the four well beings.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This report is for information only and to keep Council informed.					

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
		✓	Internal
			Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

6. CONCLUSION

Council is being asked to receive and review a monthly update on the meeting calendar for the remainder of 2018.

7. ATTACHMENTS

Nil.