

**Report of the Strategy and Policy Committee  
Meeting of Thursday 9 November 2006**

**Members:** Mayor Prendergast, Councillors Armstrong (Chair), Ahipene-Mercer, Cook, Foster, Gill, Goulden, McKinnon, Morrison, Pepperell, Ritchie, Ruben, Shaw, Wade-Brown and Wain.

**THE COMMITTEE RECOMMENDS:**

**1. ITEM 264/06P TRADING IN PUBLIC PLACES POLICY  
(1215/52/IM) (REPORT 1)**

*THAT Council:*

1. *Adopt the amended Trading in Public Places Policy, attached as Appendix 1 of this report.*

**2. ITEM 265/06P STATEMENT OF PROPOSAL TO AMEND THE  
GAMING VENUES POLICY  
(1215/52/IM) (REPORT 2)**

*THAT Council:*

1. (a) *Note the findings of the updated social impact report included in the statement of proposal.*  
(b) *Agrees to the draft Gaming Venues Policy attached as appendix 2 of this report and resolves to initiate the special consultative procedure as required by the Gambling Act 2003.*

**3. ITEM 266/06P WATER COURSES BYLAW - REVOCATION  
(1215/52/IM) (REPORT 3)**

*THAT Council:*

1. (a) *Revoke Part 19 of the Wellington Consolidated Bylaw – Watercourses, as it no longer appears to be the most appropriate mechanism to achieve Council's objectives.*

- (b) *Agree that the Special Consultative Procedure has been completed pursuant to section 86 of the Local Government Act 2002.*

**Robert Armstrong**  
**Chair**

## **TRADING IN PUBLIC PLACES POLICY**

### **1. Definitions**

The Council	The Wellington City Council or any committee or elected member of the Council or officer authorised to exercise authority of the Council.
Hawker	Trading from a vehicle and only stopping long enough to sell to a customer.
Open Air Market	Any outdoor place, accessible to the public, where goods are offered for sale, which usually consists of several merchandise stalls grouped together.
Public Place	Any road, street, footpath, court, alley, square, pedestrian mall, lane or access-way of a public nature open to or used by the public as of right and every place to which the public have access and every reserve, park, domain, beach, foreshore and recreational ground within the City, subject to the provisions of the Reserves Act 1977.
Recreation Equipment	Any equipment used for recreational purposes such as kayaks, canoes, boats, surf boards, bicycles, roller blades, or scooters.
Retail Kiosk	A small, permanent structure used to sell goods such as newspapers, magazines or confectionary items.
Temporary Retail and Food Stalls	Any stand, stall, tent, mobile shop, vehicle, vessel or other setup from which goods and / or food are sold that is open in a temporary nature and removed when not in use.
Trading	The act of selling or trading, or offering to sell or trade, goods or services, with or without use of a vehicle.

### **2. Introduction**

Trading in public places can add to the character, vibrancy, visitor experience and safety of the city. It is important however to control trading activities in public places to ensure appropriate standards of health, safety, pedestrian priority and visual amenity are maintained. It is also important to consider the potential impacts on established businesses when determining where street vending activities can occur.

### 3. Objectives

The policy is to ensure that the public trading activities in Wellington City make public places more safe, lively and attractive without inhibiting the safety and efficiency of pedestrian movement. The Policy guides:

- the granting of licences for trading in public places
- the types of trading that are allowed
- conditions for
  - health and safety
  - pedestrian access
  - consideration of established businesses.

### 4. Principles of the Policy

The following principles shall apply when considering trading activities in public places:

- The Council's decision to license and encourage trading in public places is reflective of its strategic vision for the city.
- Pedestrian priority should be enhanced to facilitate more efficient and safe walking routes in Wellington and to encourage more people to walk as their primary transport mode where possible.
- Wellington streetscapes and public places should be vibrant, safe and attractive.
- Wellington public places should provide opportunities for pedestrians to participate in the public environment - leisure, retail, recreation and entertainment.
- Businesses, groups and individuals that are licensed to use public places for trading activities are responsible for managing those activities in accordance with Council guidelines.
- Private trading activities that introduce changes to paving or street furniture (e.g. barriers) for amenity purposes will generally not be permitted.
- Trading activities should add to the city's vibrancy, improve public safety and strengthen the existing function of areas.
- The effects on existing businesses will be taken into account.
- Fees shall be set on a cost-recovery basis. Licence holders should not be unfairly advantaged over established businesses that have rent or rates overheads.

### 5. Scope of activities

The Trading in Public Places Policy provides guidelines for allowing the following trading activities on streets and public places:

- temporary retail and food stalls
- retail kiosks
- recreational equipment hire
- hawking
- open air markets.

### 6. Where is trading in public places allowed?

The Council will grant licences against certain guidelines for trading in public places as an activity that will bring life and atmosphere to locations in the city as well as enhance

the experience of certain areas. Factors that could be considered when determining locations for street vending activities include whether:

- the location
  - works well with the rest of the city
  - is highly visible
  - is easily accessible
  - has low activity levels and/or less than desired public safety
- trading activities
  - do not disrupt safe and efficient pedestrian flows
  - support or enhance the existing function of the location
  - do not negatively effect locations designated as scenic areas or quiet open space.

The Wellington Waterfront Limited is responsible for approving trading activities along the land designated as the 'Waterfront'. Wellington City Council will require Wellington Waterfront Limited to provide an open air market on the waterfront.

## **7. Temporary Retail and Food Stalls, Retail Kiosks and Recreational Equipment Hire**

The Council reserves the right to grant licences for temporary retail and food stalls, recreational equipment hire and retail kiosks in public locations throughout the city.

The Council will charge a fee for the licence. Licences are non-transferable and can be revoked at anytime due to non-compliance. The licence must be displayed to the public at all times.

The Council is responsible for identifying and agreeing any potential kiosk locations and designs and the terms of individual leases.

### ***7.1 Type of commercial goods allowed***

The type of goods that are allowed at temporary retail and food stalls, and kiosks, include handcrafted items, art, prepared food for consumption by the public, and produce such as fruit, vegetables, and flowers.

The Council wants to reinforce the image of Wellington as a creative capital by supporting vendors that sell art, photography and handcrafted items. The goods for a temporary retail stall must be approved by the Council during the application process. Licences may be revoked if goods are sold that are not consistent with what was approved by the Council.

Recreational equipment hire may also be licensed in public places, contingent on the above guidelines being adhered to.

### ***7.2 Health and Safety Regulations***

Temporary stalls selling fresh produce must obtain a certificate of registration under Regulation 4 of the Food Hygiene Regulations 1974. The stall operator must pay the prescribed Council fee for a certificate of registration. Stalls must comply with relevant food safety and hygiene regulations. Stall operators that do not comply with food safety and hygiene regulations will have their certificate of registration and their temporary retail stall license revoked.

## ***7.3 Times of operation and licence duration***

The times of operation will be stated in the licence as will the duration of the licence. Stall holders that operate outside the times outlined in the licence may have their licence revoked.

## ***7.4 Stall appearance and storage***

The Council must approve the appearance of the stall. A photograph or a detailed sketch of the stall must be included in the application for a temporary retail stall. The stall must maintain high standards of appearance at all times. No changes may be made to the stall without prior approval.

The stall operator must be in attendance at all times.

Stalls are generally not permitted to be stored on site overnight and must be removed from the public place when not in use. The Council may revoke the stall licence if the licence holder does not keep the stall appearance tidy and safe to the satisfaction of the Council.

The trading area should be left clean and tidy to the satisfaction of the Council and all rubbish must be properly disposed of. No rubbish should be stored in public view during operating hours. No goods are permitted to be stored outside a kiosk when not in use.

The operator must keep noise to reasonable levels to the satisfaction to the Council.

## ***7.5 Application process***

The application for a temporary retail stall licence must include:

- detailed information of the type of goods to be sold (the Council may request to see the goods)
- the proposed days and hours of operations
- a photograph or detailed sketch of the vending stall
- the application fee
- evidence of public liability insurance
- information required for food hygiene and safety registration.

## **8. Hawking**

The Council permits hawking outside the Central Business District as defined in the District Plan.

Hawkers selling food must obtain a certificate of registration under Regulation 4 of the Food Hygiene Regulations 1974. Hawkiers selling food must comply with food safety and hygiene regulations. Food-selling hawkiers that do not comply with food safety and hygiene regulations will have their certificate of registration revoked. Hawkiers must pay the prescribed Council fee for a certificate of registration.

Trading from a fixed location is not permitted.

Hawkiers must properly dispose of their rubbish. The operator must keep noise to reasonable levels to the satisfaction to the Council.

## 9. Open Air Markets

The Council may license the establishment of open air markets on public places on a case-by-case basis, taking into account the nature of the public place and the potential effect on existing businesses. Individuals or groups must receive licensed permission from the Council to operate an open air market in a public place. Licence conditions may include:

- identifying the type of goods that can be sold at the market
- ensuring adequate space for pedestrians
- allocating set hours and days for operation
- identifying issues relating to storage.

Any group or individual interested in establishing an open air market on public land should contact the Council.

Stall holders in open air markets, on public or private land, where food is sold, need to obtain a certificate of registration under Regulation 4 of the Food Hygiene Regulations 1974.

## 10. Fees, Monitoring and Enforcement

Fees will be set in alignment with the Council's revenue and financing policy which requires that the costs of this policy will be fully recovered from licence fees. Licence fees are expected to include the costs of:

- licensing
- monitoring and enforcement
- administration.

The Council reserves the right to charge a rent for occupancy of public spaces in addition to the licence fee. Such a rent would be assessed by the value of the location and to ensure that businesses on private property are not unfairly disadvantaged.

The licence applicant must pay the full licence fee and have all the required permits before the licence will be issued.

The Council will monitor trading activities in public places regularly to ensure that traders are complying with their licence conditions and that no unauthorised trading is occurring in public places.

The Council reserves the right to revoke trading licences or leases for non-compliance issues. The standard protocol for non-compliance is as follows:

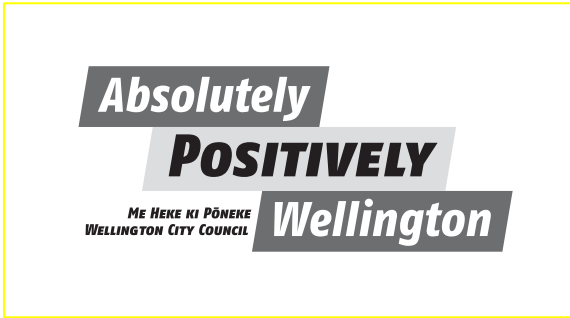
1. if a trader does not comply with the conditions of this policy, the Council will verbally notify the trader of the issue
2. if the problem persists, the Council will provide a written warning to that trader identifying the issue(s) and required remedy
3. if the business continues to infringe, the Council will consider revoking the trading licence or lease.

Individuals or groups that trade on footpaths or other public spaces without a pavement licence will be asked to remove their material and cease with the trading activity. The Council will issue a written warning to the person. If the infringement persists, the Council will reserve the right to confiscate the stall setup or trading material pursuant to sections 163 and 164 of the Local Government Act, 2002, and under part 1.15.1 of the

## **APPENDIX 1**

Wellington Consolidated Bylaw: any authorised servant of the Council may pull down, remove or alter any work, material or thing erected or being in contravention of any provision of this bylaw.

The Council may dispose of confiscated property pursuant to section 168 of the Local Government Act, 2002.



**Statement of Proposal**

**Draft Gaming Venues Policy**

**November 2006**



### Introduction

The Wellington City Council is reviewing its Gaming Venues Policy. The policy was adopted in March 2004 in accordance with the requirements of the Gambling Act 2003.

The Gaming Venues Policy manages the number and location of class 4 non-casino gaming machines (commonly referred to as pokies) in Wellington. The policy also covers Totalisator Agency Boards (TAB) venues as detailed in the Racing Act 2003. These two policies are combined into one Gambling Venues Policy (attached as Appendix A). As required by section 87 of the Local Government Act 2002, this statement of proposal includes:

- A draft of the policy
- A statement of the reasons for the proposal
- An analysis of the reasonably practicable options

The social impacts of gambling have been considered as part of the policy review. (see Appendix B.)

The draft policy (attached as appendix 1) will have the same impact on machine numbers as the existing policy. It allows for class 4 gaming venues to be established anywhere in the Wellington district subject to the following restrictions:

- The total number of gaming machines in any gaming venue zone (areas based on 2003 ward boundaries), excluding the Central Business District, may not exceed the maximum machine limits outlined below.<sup>1</sup>

<b>Gaming Venue Zones</b>	<b>Maximum number of Machines</b>
Southern	116
Northern	146
Eastern	125
Onslow	62
Western	73
Lambton (excluding the Central Area Zone)	55
Central Area Zone	No limits

- All gaming venues must have a full and current on-licence (with a designation) or club liquor licence under the Sale of Liquor Act 1989.
- Applications seeking Ministerial discretion to increase the number of gaming machines at a club venue above 9 will not receive consent.

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<sup>1</sup> Maximum machine numbers for the proposed policy are the same as the current policy.

## APPENDIX 2

- Applications seeking Ministerial discretion to increase the number of gaming machines at a club, as the result of clubs merging, will receive consent subject to the limits prescribed by the Gambling Act.
- Meeting application and fee requirements
- Obtaining any necessary resource consents under the Wellington City District Plan or Resource Management Act.

TAB venues may be established anywhere in the Wellington District, subject to the provisions of the Wellington City District Plan and meeting application and fee requirements.

In respect of TAB venues, the Gaming Venues Policy only applies to applications for the establishment of stand-alone Board venues. It does not cover the installation of TAB terminals in premises not owned or leased by the TAB (e.g. hotels, bars and clubs).

### **Reasons for the proposal**

The Council is reviewing its Gaming Venues Policy as a requirement of the Gambling Act 2003. The policy must be reviewed every 3 years.

The purpose of the Gambling Act 2003 (the Act) amongst other things is to control the growth of gambling, prevent and minimise the harm caused by gambling (including problem gambling), ensuring that money from gambling benefits the community and to facilitate community involvement in decisions about the provision of gambling.

The Act requires local authorities to develop a policy for class 4 non-casino gaming machines, commonly referred to as 'pokie machines'. A Council's Gambling Venues Policy:

- must specify whether or not class 4 venues (hereafter referred to as gaming machine venues) and Totaliser Agency Board (TAB) venues may be established in its district, and, if so, where they may be located
- may specify any restrictions on the maximum number of gaming machines that may be operated at any class 4 venue.<sup>2</sup>
- must have regard to the social impact of gambling within the district

In addition the Racing Act 2003 required Councils to consider a policy for the establishment of new stand alone TAB premises. The policy excludes TAB terminals in premises not owned or leased by the TAB (E.g. hotels, bars and clubs).

Before a venue can install machines it must have a venue license issued by the Department of Internal Affairs (DIA). A prerequisite for such a licence is

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<sup>2</sup> The maximum number of machines allowed in any venue licensed after 17th October 2001 is 9 machines. Venues licensed prior to this date are allowed up to a maximum of 18 machines, but no more than they legally held as at September 2003.

consent from the local authority. All consents must be in accordance with the adopted policy and other factors are not taken into account.

The Gambling Act also states that a venue hosting gaming machines cannot have gaming machines as its primary purpose. The Gambling Act provides for the policy to affect all gaming machines venues that:

- Are seeking a licence for the first time
- Are seeking to increase machine numbers
- The licence has lapsed for 6 months or more

The proposed policy has been developed to meet the requirements of the Gambling Act 2003.

### **Policy objectives**

The objectives of Wellington City Council's gambling venue policy are to:

- Manage the growth of gaming machines in areas of concern
- Ensure that, within the limits prescribed by the Gambling Act, people who wish to participate in gaming machine and TAB venue gambling can do so within the Wellington District
- Ensure that gaming machines are located within venues where there is a degree of supervision and control of those using the machines, to assist in reducing the risk of problem gambling, and gambling by those under 18 years of age

### **Current Situation**

The current Gaming Venues Policy enables residents' to access class 4 non-casino gaming machines (pokies) and TAB venues for the purposes of entertainment, while managing the growth of gambling.

The policy places limits on the allowable number of machines in suburban areas. The Central Business District is excluded from a cap. The policy allows for TAB venues to be established anywhere in the city.

Since the introduction of the Gambling Act gaming availability has decreased in Wellington. In September 2006 Wellington had 22 fewer venues (82 in 2003 compared to 61 in 2006) and 174 fewer gaming machines (1032 in 2003 compared to 858 in 2006).

In 2004 the initial impact of the policy was the removal of a total of 18 machines from 2 venues in the Southern Ward. This was a one off impact. The remainder of the decline is not a result of the Council's policy, rather, it is largely attributed to increased regulation and higher compliance costs associated with the Gambling Act and the impact of smoke free legislation.

## APPENDIX 2

Table 1 and graph 1 outline the change in gaming machine venues and machines since the policy was introduced.

Table 1. Gaming Venues in Wellington by Ward - Sept 2006

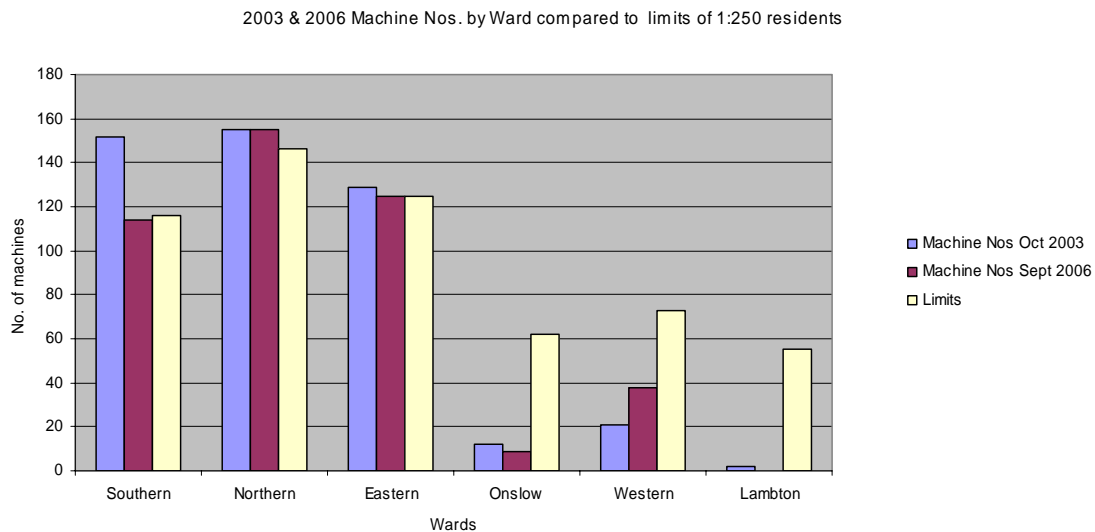
<b>2003 Wards</b>	<b>Gaming Venues Oct 2003</b>	<b>Gaming Venues Sept 2006</b>	<b>Variance</b>
Southern	14	8	-6
Northern	11	11	0
Eastern	13	10	-3
Onslow	2	2	0
Western	3	3	0
Lambton (Excluding the CBD)	1	0	-1
CBD	38	27	-11
<b>Total</b>	<b>82</b>	<b>61</b>	<b>-21</b>

Source Data: Department of Internal Affairs

In the Central Business District, where no policy limits exist, venue numbers have fallen by 11 from 38 in 2003 to 27. There are currently 416 gaming machines in the CBD, 145 fewer than 2003.

The Hospitality Association of New Zealand (HANZ) attribute this decline (in addition to the Gambling Act and smoke free legislation) to the changing nature of licensed premises in the CBD - where gaming machines appear to be less appealing to business owners, who want to maximise the space they have and attract patrons who are not interested in gaming activity. Gaming societies expect the number of gaming venues to fall slightly over the next 9-12 months and then stabilise as the gaming industry finds its natural equilibrium under the full effects of the Gambling Act and smoke free legislation.

Graph 1.



Outside of the CBD pokie machines are predominately located in the Northern, Eastern and Southern Wards. Limits on machine numbers have been designed to prevent further growth of pokie gambling in these areas of the city while enabling growth to occur in parts of the city where fewer gaming machines are located.

The policy allows for growth to occur in parts of the city where few gaming machines are located. For example, a combined total of 143 gaming machines could be added to the Onslow, Western and Lambton Wards (excluding CBD). Although there has been an opportunity for that growth in these areas, machine numbers have remained low – indicating little demand exists for machines in these parts of the city.

The current policy has prevented the growth of gaming machines in some suburban areas, that is, applications for consent have been received and declined because the limit would be exceeded. This suggests the policy has had the desired impact of managing the growth of machines and the policy is meeting its objectives. The policy allows for more machines in the CBD yet there has been a decline in numbers. It is likely that legislative changes and the changing character inner city venues have contributed to that decrease.

The number of standalone TAB venues (8) has remained unchanged since 1998. This is likely to be because the Agency has adopted a business model focusing on social outlets in pubs and clubs, and sports betting via the internet.

The key findings of a social report which accompanied the current policy have been updated and show that problem gambling remains a significant public health issue. Problem gambling affects not only individuals, but friends, families, businesses and the wider community. Rates of problem and at risk gambling are higher for people who are aged 25-34, for Maori and Pacific people, in areas of socioeconomic deprivation and for those with lower educational attainment. Based on national prevalence data it is estimated that 3,000 –4,000 residents are at risk or problem gamblers.

Apart from the city centre, the majority of gaming machines in Wellington are clustered in areas where communities have higher risk factors associated with problem gambling. Social service agencies in Wellington are concerned about the level of problem gambling and gaming availability in Wellington, particularly in those areas vulnerable to problem gambling.

The updated social report is attached as Appendix B.

In reviewing the policy Council officers noted the decline in pokies in some areas of the city and considered the argument that there is no need for the Council to control machine numbers. However, given that Council's policy has prevented the growth of gaming in areas with high machine density, and concerns about problem gambling – it is recommended that a policy which manages growth is still the most appropriate.

### **Analysis of options**

In considering the main findings from the social report, the workings of our existing policy and initial feedback from stakeholders, four policy options have been considered in this Statement:

1. Cap machine numbers at existing policy limits
2. Update the current policy to reflect population growth
3. City wide ban on new machines (sinking lid policy)
4. No intervention (laissez faire)

Appendix A outlines the proposed policy - cap machine numbers at existing policy limits.

### **Common Elements**

All options recommend that the current provisions outlined below be retained:

- that all gaming machine venues must have a current on-licence (with a designation) or club liquor licence under the Sale of Liquor Act 1989
- that no additional restrictions are placed on the location and number of TAB venues, beyond those prescribed in the Gambling Act
- Consent will not be given to applicants seeking Ministerial discretion to increase the number of gaming machines at a club venue to 18.
- Consent will be given to applicants seeking Ministerial discretion to increase the number of gaming machines as the result of clubs merging in accordance with the limits set in the Gambling Act.
- Note the policy must be reviewed within three years. Council has the option to review the policy earlier than this statutory requirement.

- Fees will be charged for consideration of applications by the Building Consent and Licensing Services Business Unit of Council. The fees charged for consideration of the application are \$90 per hour (GST inclusive).

### Option 1: Cap machine numbers at existing policy limits

This option assumes the existing policy, regardless of population growth, provides an adequate level of pokie provision in Wellington and adequately controls the growth of gaming availability in the district.

Limits on machine numbers were generated in electoral wards using 2001 census population data. A ratio of 1 machine per 250 residents was applied to each ward. In September 2006 Wellington had 1 machine per 214 residents compared to the national average of 1:201.

Consent for new gaming machines will not be granted in any policy zone, excluding the Central Business District, if the number of machines exceeds the maximum limits outlined in the table below.<sup>3</sup>

Table 1. Current limits on machine numbers

<b>Gaming Venue Zones</b>	<b>Maximum number of Machines</b>	<b>Number of machines Sept 2006</b>	<b>Variance</b> (a positive figure indicates growth is possible)
Southern	116	115	1
Northern	146	155	-9
Eastern	125	125	0
Onslow	62	9	53
Western	73	38	35
Lambton (excluding the Central Area Zone)	55	0	55
Central Area Zone	No limits	416	n/a

The policy prevents the growth of gaming machines in areas with a high density of machines, while enabling machine numbers to increase in areas where few machines are located. This approach accommodates turnover in gaming venues. Machine numbers in the Central Business District are determined by the market in conjunction with the regulatory framework. There are 145 fewer machines in the CBD compared to 2003.

The policy (outlined in 4.4) limits appears to be working well and officers recommend they be retained. However it is recommended that:

*The term 'gaming venue zones' be used instead of electoral ward.*

<sup>3</sup> Maximum machine numbers for the proposed policy are the same as the current policy.



The 2004 Gambling Venues Policy employed 2001 ward boundaries as a basis of grouping communities together. Linking the policy to the vagaries of ward boundaries generates unpredictable shifts in allowable machine numbers, introduces unnecessary complexity for those administering the policy and reduces the ability to accurately monitor the policy over time.

While 2001 ward boundaries continue to offer a useful way of grouping communities together in the city, using the term 'ward boundaries' is likely to cause confusion given that boundaries have already changed once since the policy was introduced and are likely to change periodically. Therefore, officers recommend decoupling the policy from ward boundaries and population increases. The wording will be revised from electoral ward to 'gaming venue zones', e.g. Northern Zone, Southern Zone, Eastern Zone, Western Zone, Onslow Zone, Lambton Zone and CBD Zone.

Impact of this policy option:

- Potential for a growth of gaming in areas in the CBD, Onslow, Western and Lambton zones
- Machine number limits prevents growth in the Southern, Eastern and Northern zones
- Fewer venues may result in less money being returned to the community, and may also have a positive impact on at risk and problem gambling.

*This option is recommended and a draft policy reflecting this option is attached as Appendix A.*

### **Option 2: Update the current policy to reflect population growth**

The current policy was established on the basis of 1 machine : 250 people. This option retains that feature except it updates the machine numbers on the basis of population increases.<sup>4</sup> This option would allow some growth in machine numbers across the city including areas with relatively high density of machines and higher vulnerability to problem gambling.

This option provides for an increase of approximately 70 machines over the existing limits. This will result in shifting the current limits (outside of the CBD) from 577 machines to 647 machines. The table below shows the revised machine limits compared to current machine numbers.

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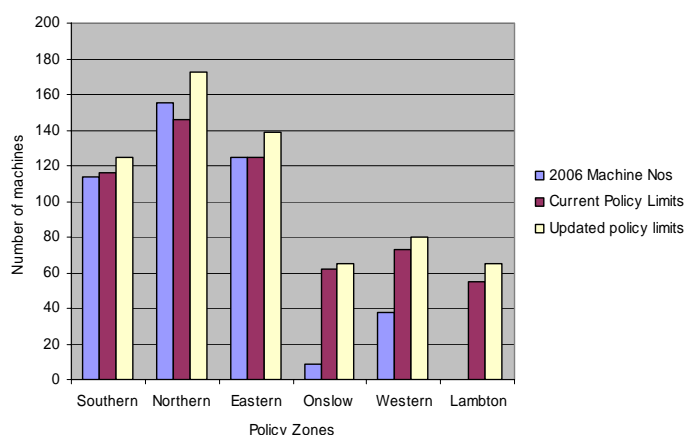
<sup>4</sup> 2005 Population projections from Statistic NZ have been employed in lieu of 2006 Census Data. If this option proceeds to consultation then Final figures will incorporate Census data when this information becomes available.



Table 2. Machine limits with the updated population figures

<b>Gaming Venue Zones</b>	<b>Maximum number of Machines</b>	<b>Number of machines Sept 2006</b>	<b>Variance (potential growth in machine numbers)</b>
<b>Southern</b>	<b>125</b>	<b>115</b>	<b>10</b>
<b>Northern</b>	<b>173</b>	<b>155</b>	<b>18</b>
<b>Eastern</b>	<b>139</b>	<b>125</b>	<b>14</b>
<b>Onslow</b>	<b>65</b>	<b>9</b>	<b>56</b>
<b>Western</b>	<b>80</b>	<b>38</b>	<b>42</b>
<b>Lambton (excluding the Central Area Zone)</b>	<b>65</b>	<b>0</b>	<b>65</b>
<b>Central Area Zone</b>	<b>No limits</b>	<b>416</b>	<b>n/a</b>

Policy limits with 2006 population projections 1:250



The Onslow, Western and Lambton zones are unlikely, based on past experience to attract significant growth in gaming machines. This can be attributed in part to fewer available venues to house machines, and lower demand for gaming activity. An increase in machine numbers in the Southern, Eastern and Northern wards is of concern as these wards have a relatively high density of machines already.

#### Impact of this policy option:

- New venues are likely to be located in areas of concern
- Potential for growth of gaming in the CBD, Lambton, & Onslow Western Wards
- An increase in machines is likely to result in increased proceeds and issues related to problem gambling.

*This option is not recommended*

### **Option 3: City wide ban on new machines (sinking lid policy)**

A sinking lid policy is the strongest position Council can adopt to prevent the growth, and affect a gradual decline, of gaming machines in the district.

Under this option consent would not be given for new gaming venues and machines and over time the number of machines would diminish through attrition. It implies that the current number of gaming machines (858) and venues (61) is considered too high.

A sinking lid policy is administratively simple. However, such a policy is not sensitive to variations within the district. While the policy ensures there is no increase in machine numbers, those areas with few machines such as the Onslow and Western zones, are unable to introduce machines. It would also lock in the current distribution of gaming machines in Wellington, and further entrench the advantaged position of those venues with a license for 18 machines. It is likely that the grants to community groups in Wellington by gaming societies would reduce.

#### *Impact of this policy option:*

- No new gaming machines allowed in the district – provides no flexibility
- Potential for a gradual decline in the number of gaming venues in the city.
- Fewer venues over time are likely to result in reduced rates of at risk and problem gambling as well as a lower level of grants to the community.

*This option is not recommended*

### **Option 4: No intervention (Laissez faire)**

Under this policy the only restriction on venues are those stipulated by the Gambling Act and the Department of Internal Affairs. Wellington City Council would give its consent to all applications in Wellington. This option relies on the restrictions imposed by the Gambling Act to control gaming machines, i.e. a maximum of 9 machines per venue.

Since the introduction of the Gambling Act machine numbers and venues have dropped including in areas where Council allows for growth. There is an argument that there is no need for WCC to control venue and machine numbers. However, given the density of machines in some areas and that without our policy that density would have increased, it is recommended that a policy which manages growth and addresses density is still the most appropriate.

### *Impact of this policy option:*

- Potential for unfettered growth of gaming venues in the district – particularly in areas of concern
- Increased availability to gaming opportunities may result in increased levels of grants to the community and increased negative impacts associated with problem gambling

*This option is not recommended*

### **TAB venues**

The Gaming Venues Policy incorporates the TAB Venues Policy. The current policy enables stand alone TAB venues to be established anywhere in the district. Although the policy allows for growth, no new venues have been established in Wellington since 1998. There are currently 8 stand alone venues distributed across the city.

The TAB has 14 social outlets in pubs and clubs in the city and a website for sports betting. The Gambling Act does not enable Council to develop a policy for these activities.

Although no increases have occurred for some years it is recommended that the current policy be retained until the next review to provide flexibility should demand arise for an additional TAB venue.

### **Appendices**

Appendix A: Update on the findings of the 2003 Social Report

Appendix B: Draft Gaming Venues Policy

## APPENDIX 2 – Statement of Proposal Appendix A

### Update on the findings of the 2003 social report

The main findings from the social report tabled in 2003 have been revisited and updated below with new information where available. The conclusions draw heavily on material provided by the Department of Internal Affairs, the Ministry of Health and meetings with local stakeholders.

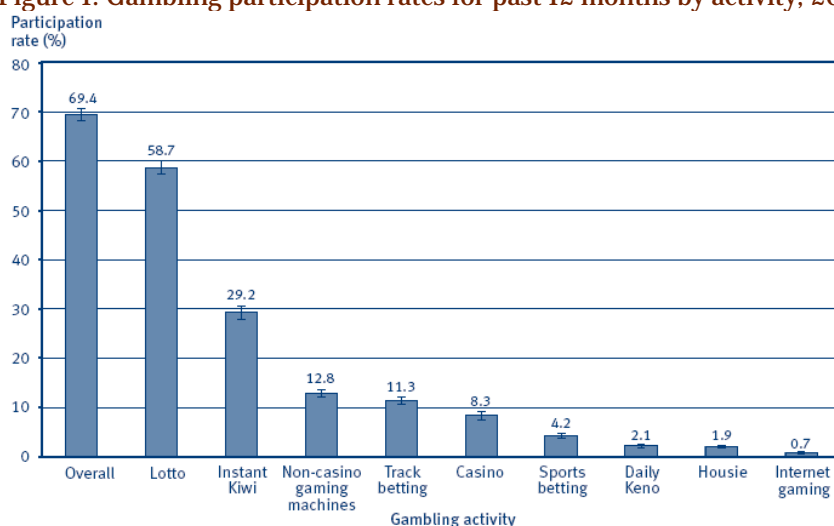
The conclusions are:

#### Gambling is a popular activity

A series of surveys over the past 15 years show that between 70% and 90% of adult New Zealanders engage in at least one form of gambling annually.

Gambling is associated with entertainment benefits.

Figure 1. Gambling participation rates for past 12 months by activity, 2002/03



Source: Ministry of Health (2006) Problem Gambling in New Zealand, Analysis of the 2002/03 NZ Health Survey

According to a 2002/3 survey the most popular forms of gambling in New Zealand are Lotto (58%), Instant Kiwi (29%), non casino gaming machines (12%), track betting (11%) and casinos (8%). Internet gaming was the lowest reported gambling activity in 2002/3 (0.7%).<sup>1</sup>

Wellington has 39 lotto outlets, 22 TAB agencies and social outlets and 60 gaming machine venues spread across the city.

#### Expenditure on gaming appears to have peaked in the medium term

New Zealanders have practically tripled their expenditure on various forms of gambling over the past decade from 695 million in 1995 to 2 billion in 2005.<sup>2</sup>

Expenditure on non-casino gaming machines has been the primary mode of gambling responsible for elevated levels of spending. Spending on pokies increased by 600 percent between 1995 (171 million) and 2004 (1.034 billion).

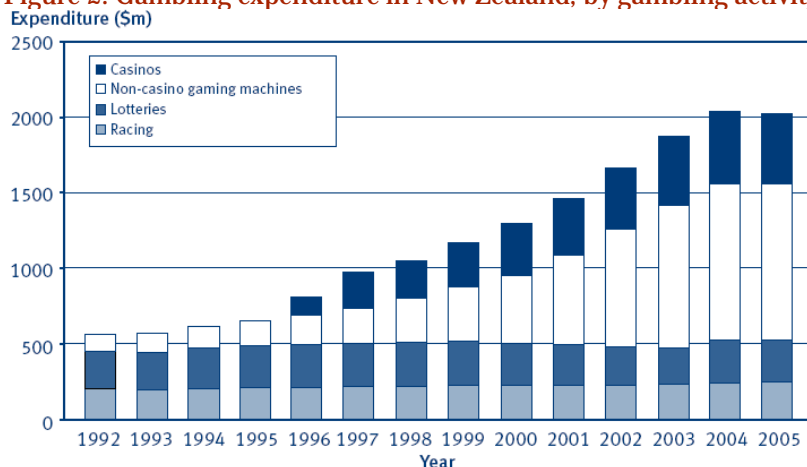
<sup>1</sup> The provision of Remote interactive gambling (Internet) is restricted to the TAB or the New Zealand Lotteries Commission. It is not illegal for New Zealanders to gamble on overseas sites. (source: DIA – Gambits – Sept 2006)

<sup>2</sup> Expenditure means gross amount wagered minus the amount paid out or credited as prizes or dividends

## APPENDIX 2 – Statement of Proposal Appendix A

Over this same period expenditure on other activities such as racing and lotteries products have remained relatively static.

Figure 2. Gambling expenditure in New Zealand, by gambling activity, 1992-2005



Source: Department of Internal Affairs 2004, 2006

Expenditure on pokie machines fell for the first time in 2005 from \$1.035 billion to \$1.027 billion (0.8%) and is expected to fall to around \$900 million in 2006.

A range of contributing factors, such as increased compliance costs associated with the Act, smoke free bars, and to a lesser extent local authority policies, are cited for the recent decline in gaming expenditure. The factors listed above have impacted on the number of corporate societies, venues and machines.

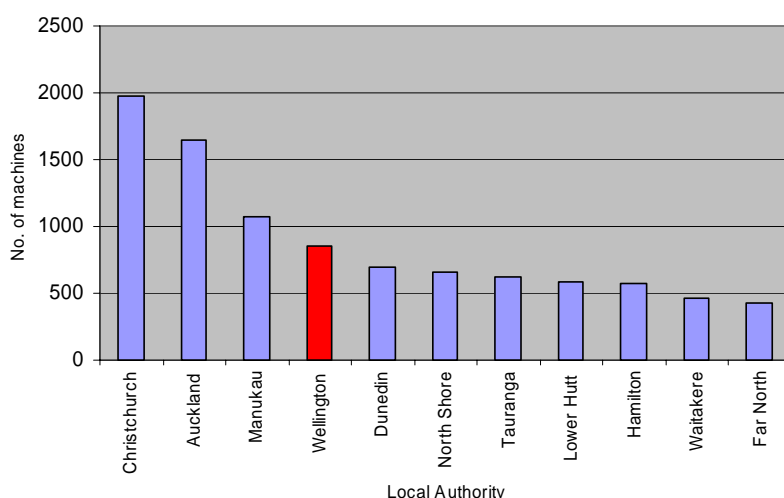
The number of corporate societies (gaming trusts) has fallen. Some smaller corporate societies and clubs have exited the industry due to their limited capacity to absorb the increased compliance costs, such as upgrading machines for an Electronic Monitoring System.

The number of gaming venues has decreased. There were 21 fewer gaming venues in Wellington in September 2006 (61) compared to 2003 (82). This represents a decline of 27% of venues compared to the decline of 19% which occurred nationally.<sup>3</sup> Wellington has 3.6% of venues in New Zealand.

<sup>3</sup> Statistics from the Department of Internal Affairs (DIA) show the number of gaming venues in New Zealand fell by 403 (-19%) from 2,104 to 1,701 between September 2003 and June 2006.

## APPENDIX 2 – Statement of Proposal Appendix A

Non-casino gaming Machines by Local Authority - Sept 2006  
(Source: DIA)



In September 2006 Wellington had 858 machines, 174 fewer machines than in October 2003 (1032) representing a 15% decrease compared to the average reduction across the country of 8%.<sup>4</sup> Wellington has 4% of the population and 4% of non-casino gaming machines in New Zealand.

Wellington is ranked fourth in the country for non-casino gaming machines. It is worth noting that Christchurch, Auckland, Hamilton, Queenstown (2) and Dunedin have casinos in their district. Gaming machines which operate in casinos are not reflected in the graph above. Proceeds from gaming machines in casinos are returned back to the casino. The Gambling Act prevents new casinos being established.

It is estimated that approximately \$42 million was lost on gaming machines in Wellington in 2005 compared to \$50 million in 2003.<sup>5</sup> The most active gaming society in our district reported a \$6.8 million decline in proceeds from \$30.4 million in 2003 to \$23.6 million in 2005. Several sports clubs reported reduced proceeds over the period. This decrease has been partially offset by one corporate society reporting a \$1.7 million increase, and another with an increase of \$0.3 million.<sup>6</sup>

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<sup>4</sup>Gaming machines in New Zealand reached a peak of 25,221 in 2003. By June 2006 the number of gaming machines reduced by 4,482 to 20,739, closely reflecting gaming machines numbers in 2000.

<sup>5</sup> Council Officers requested information about gaming proceeds from all corporate societies and clubs who operate machines in Wellington. Returns represent 70% of venues & 71% of machines in the district.

<sup>6</sup> It has proved difficult to gain complete and comparable data from gaming societies on exactly how much has been gambled in Wellington and how much has been returned back to the community in the form of grants – therefore figures can only be treated as indicative

## APPENDIX 2 – Statement of Proposal Appendix A

### Grants

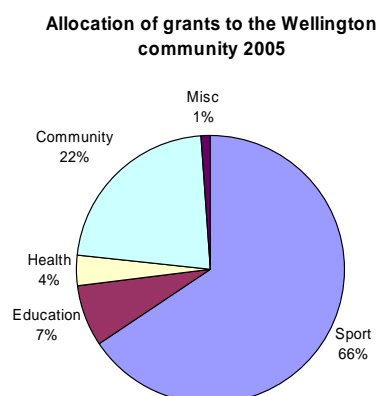
A 2002 study of the funding sources for New Zealand non-government and not for profit reported that grants from gaming machine trusts represent \$131 million or 8% of their revenue.

Philanthropic Trusts	\$142,801,284
Local Government	\$28,200,000
Gaming Machine Trusts	\$131,241,000
Lottery Board	\$91,381,417
Personal donations	\$281,905,620
Bequests	\$37,698,180
Central Government	\$920,595,000
<b>Total</b>	<b>\$1,633,822,501</b>

Source: Funding New Zealand – Hanley & Robinson 2002.

Many community groups and sports clubs apply for funding from gaming societies. For every dollar raised through pokies 33 cents goes to the government in the form of taxes, GST and levies, societies may spend up to 33 cents for authorised expenses and a minimum of 33 cents must be returned to the community in the form of a grant.

It is estimated that \$16 million in grants was returned to the Wellington community in 2005 compared to around \$21 million in 2003. In Wellington sports clubs and groups receive around 66% grants, while community groups receive 22% and those involved in health and education receive between 4% – 7% respectively.



Demand for community grants is high. The gaming society with the most venues and machines in Wellington (26 Venues, 411 machines) received grant requests from groups in the Wellington region totally \$18.7 million in 2005. The society was able to fund \$9.7 million.

While many groups, especially sporting groups, benefit from pokie funding – there is a general concern from social service agencies that proceeds are flowing from poorer parts of our community into more affluent sectors. Some

## APPENDIX 2 – Statement of Proposal Appendix A

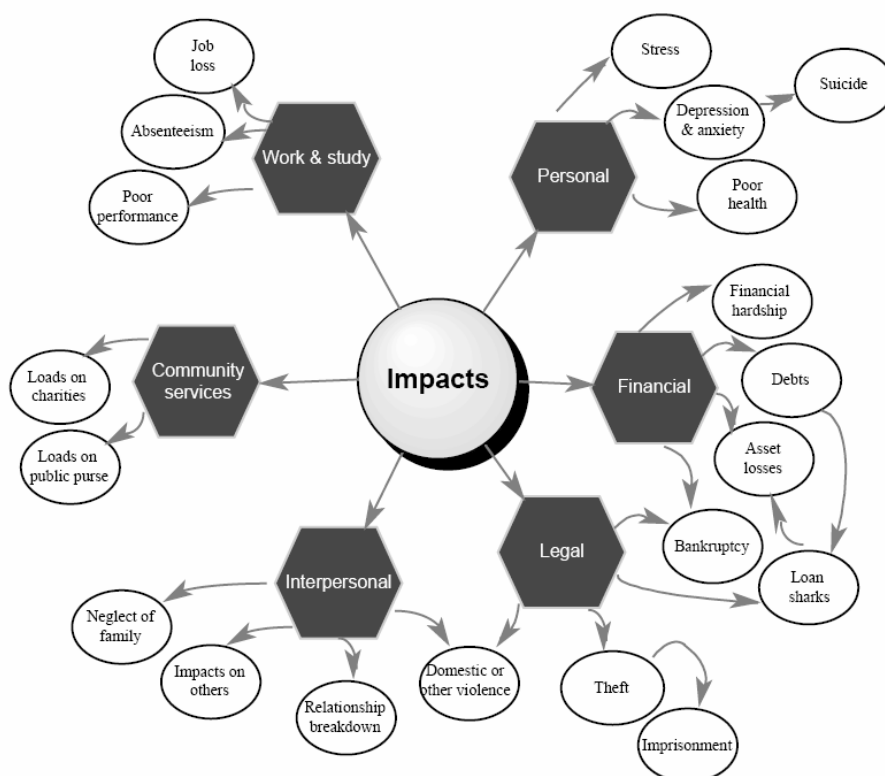
organisations, including church and Maori social service providers, choose not to apply for pokie funding as a matter of principle. These organisations oppose the use of the pokie funds because of the harm associated with problem gambling and the impacts on the clients they serve. The *Downtown Community Ministry* is one organisation who has taken this stand in Wellington.

Some argue that the social costs associated with non casino gambling outweigh the economic benefits community receive in the form of grants. A study in Bendigo in Australia noted that gaming revenue resulted in *'large leakages out of the economy in the form of taxes and payments to the machine owners with very little of the total revenue left to circulate in the regional economy.'*

### Problem gambling is a significant public health issue

In reviewing our policy it is important to note the social impacts of harmful gambling on our community. While many people enjoy gambling as a recreational pursuit, for some gambling can become a major issue. Problem gambling is related to negative impacts upon health, debt, family relationships and crime.

Figure 3. Impacts of problem gambling



Source: The Productivity Commission (1999)

The Ministry of Health has responsibility for developing a public health approach to help prevent and minimise gambling related harm. A public health approach recognises the 'broader environmental context, (e.g. social, economic and cultural) in which gambling exists in New Zealand.' (see figure 3).



## APPENDIX 2 – Statement of Proposal Appendix A

The Ministry's focus is on preventing harm according to the definition within Section 4 of the Gambling Act - which includes harm from gambling suffered by the person, the person's spouse, partner, family, whanau, or wider community. It is generally accepted that one person's problem gambling can impact on five or more people.<sup>7</sup> Problem gambling in this context is not just about individuals but about the whole community.

The Ministry is currently working on a social marketing campaign that will go live in 2007. The campaign will include a television campaign on problem gambling. An extensive research programme is also being developed to help to better understand problem gambling in New Zealand and to help inform future policy approaches. One aspect of this will be the upcoming national health survey, where 12,000 New Zealanders will be interviewed on a range of health issues, including gambling.

A series of regulations introduced under the Gambling Act focus on harm prevention and minimisation. The regulations prohibit gaming venues in a range of locations such as supermarkets, sports stadiums, footpaths, internet café, theatres and cinemas. Gaming machines must have a feature that interrupts play at least every 30 minutes and displays how much the player has spent during the session. The interruption feature also asks the player whether or not they want to continue playing.<sup>8</sup> Venue operators must provide information on the odds of winning, the characteristics of problem gambling and how people can seek advice if they are concerned about their gambling. Venues are able to ban a player for up to 2 years and players can ban themselves from venues.

Other regulations include a ban on automatic teller machines in venues, prize limits (\$1000) and restrictions on signage and jackpot branding. The DIA is responsible for ensuring venues operate in accordance with the Gambling Act and associated regulations.

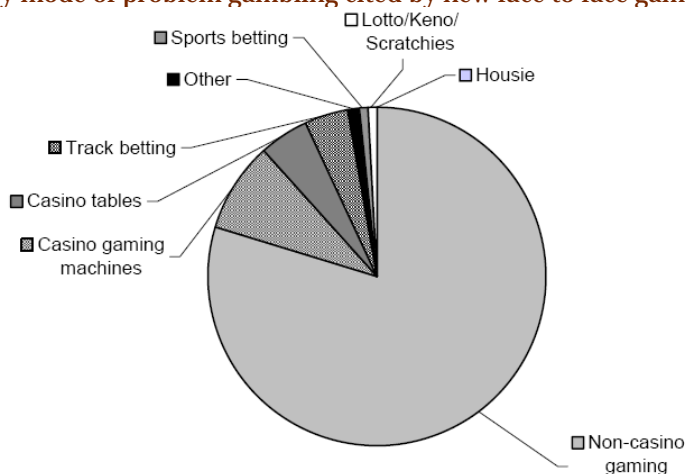
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<sup>7</sup> Problem Gambling Foundation of New Zealand

<sup>8</sup> All new machines must have this feature, and existing machines must be upgraded by July 2009

## APPENDIX 2 – Statement of Proposal Appendix A

Primary mode of problem gambling cited by new face to face gambling 2005



Source: Ministry of Health - Preventing and Minimising Harm

A 2005 survey of problem gambling found that rates of problem gambling and at risk gambling are higher for people who are aged 25-34, for Maori and Pacific people, in areas of socioeconomic deprivation and for those with lower educational attainment. Approximately 80% of those seeking help for problem gambling in New Zealand identified non-casino gaming machines (pokies) as their main mode of gambling.<sup>9</sup> In recent times more women than men have sought help for gambling related problems.

Perhaps unsurprisingly the same survey reported that 'over five times as many gaming machines [in New Zealand] are located in the two most deprived deciles (deciles 9 & 10) than in the two least deprived deciles (deciles 1 & 2)'.<sup>10</sup> TAB venues are also more likely to be located in more deprived areas. The findings of this national survey are consistent with the situation in Wellington where gaming machines are noticeably clustered in areas associated with the risk factors outlined above. Our policy approach, with the use of ratio based caps, prevents the growth of machine numbers in these areas of concern in the city.

Based on national data it is estimated that around 3,000 – 4,000 Wellingtonians are problem or at risk gamblers. This is a conservative figure as it is based on self reporting via surveys.<sup>11</sup> It is estimated that 12% of people with gambling problems seek help. Rates of reported problem gambling fell for the first time in 2005. Nationally, the number of clients seeking help from face to face services fell by 15% to 4761 clients and the Gambling Help-line service recorded a drop off around 20% to 10,414 clients between 2004-2005—although the website traffic increased from 60,000 to 100,000 visits.

Social service agencies in Wellington are concerned about the level of problem gambling despite the measures put in place by the Gambling Act to minimise

<sup>9</sup> Ministry of Health (2005) Problem gambling intervention services in New Zealand – 2004 national statistics.

<sup>10</sup> *ibid.*

<sup>11</sup> Ministry of Health (2005) Problem gambling intervention services in New Zealand – 2004 national statistics.

## APPENDIX 2 – Statement of Proposal Appendix A

harm. These agencies suggest that caution is required in drawing firm conclusions from the help seeking statistics. The agencies noted that the method of data collection has changed – in some cases reducing those counted. One large agency noted that while they work with those affected by problem gambling, statistics are not yet being collected. Those who seek help for gambling problems tend to do so as a last resort, while statistics fail to capture those problem gamblers who may not seek help.

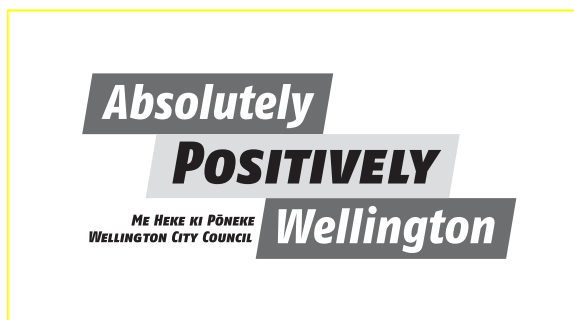
Social service agencies in Wellington told officers that clients they serve had committed crimes to support their gambling activity. This feedback supports results of a survey published in 2005 regarding recently sentenced inmates in four New Zealand male prisons – 19% reported they were in prison for gambling related offending. An earlier study by the same authors found similar rates of gambling in women inmates in New Zealand.<sup>12</sup>

The Salvation Army has surveyed those who use food banks in different parts of the country. 14% of those using the food banks reported having gambling problems. Many of those were in family situations with dependent children.

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<sup>12</sup> Abbott MW, McKenna BG, Giles LC. (2005) Gambling and Problem Gambling among Recently Sentenced Male Prisoners in Four New Zealand Prisons.

## APPENDIX 2 – Statement of Proposal Appendix B



### Draft Gambling Venues Policy (November 2006)

#### Introduction

The Gambling Act 2003 (the Act) came into effect on 18 September 2003. Under that Act, Wellington City Council adopted a Gaming Venues Policy for the Wellington District on 18<sup>th</sup> March 2004.

#### The Council's Gaming Venues Policy:

- must specify whether or not class 4 venues (hereafter referred to as gaming machine venues) and Board<sup>1</sup> venues may be established in its district and, if so, where they may be located
- may specify any restrictions on the maximum number of gaming machines that may be operated at any class 4 venue. (The Gambling Act establishes a limit of 9 machines on gaming machines venues)

In adopting the policy, the Council must have regard to the social impacts of gambling in its district.

#### Objectives of the policy

The objectives of the Gambling Act are, amongst other things, to control the growth of gambling and prevent and minimise the harm caused by gambling, including problem gambling. Beyond the objectives stated in the Act, the objectives of Wellington City Council's Gambling Venues Policy are to:

Manage the growth of gaming machines in areas of concern

- Ensure that, within the limits prescribed by the Gambling Act, people who wish to participate in gaming machine and TAB venue gambling can do so within the Wellington District
- Ensure that gaming machines are located within venues where there is a degree of supervision and control of those using the machines, to assist in reducing the risk of problem gambling, and gambling by those under 18 years of age.

#### General Conditions

A society requires Council's consent in respect of a class 4 venue:

- to increase the number of gaming machines that may be operated at such a venue

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<sup>1</sup> The Racing Act 2003 specifies that a Board venue means the premises that are owned or leased by the New Zealand Racing Board and where the main business carried on at the premises is providing racing betting or sports betting services. Historically, these venues were referred to as Totalisator Agency Board (TAB) venues.

## APPENDIX 2 – Statement of Proposal Appendix B

- to start operating gaming machines at such a venue that was not on any society's licence within the previous 6 months
- to start operating gaming machines at such a venue for which a licence was not held on 17 October 2001

The New Zealand Racing Board requires the consent of the Council if it proposes to establish a Board/TAB venue. In respect of TAB venues, the Gambling Venues Policy will only apply to applications for the establishment of stand-alone Board venues. Board venues are premises that are owned or leased by the New Zealand Racing Board, where the main business is providing racing and/or sports betting services. It does not cover the installation of TAB terminals in premises not owned or leased by the TAB (e.g. hotels, bars and clubs).

An applicant for Council consent under this policy must:

- meet the application conditions specified in this policy
- meet the fee requirements specified in this policy.

### **Where class 4 (Gaming Machine) venues may be established**

Class 4 gaming venues may be established anywhere in the Wellington district, subject to the following restrictions. Failure to comply with any of the relevant restrictions will result in refusal to grant consent.

For the purposes of this policy the Wellington District is divided into 7 zones:

- Central Area Zone – is the central area as defined by the District Plan excluding land zoned residential
- Lambton Zone – is that area comprising the Lambton electoral ward as at September 2003 except for the central area.
- Southern Zone – is that area made up of the Southern electoral ward as at September 2003
- Northern Zone - is that area made up of the Northern electoral ward as at September 2003
- Eastern Zone - is that area made up of the Eastern electoral ward as at September 2003
- Western Zone - is that area made up of the Western electoral ward as at September 2003
- Onslow Zone - is that area made up of the Onslow electoral ward as at September 2003
- The total number of gaming machines in any zone may not exceed the machine levels detailed in the table below.

## APPENDIX 2 – Statement of Proposal Appendix B

<b>Gaming Venue Zones</b>	<b>Maximum number of Machines</b>
Southern	116
Northern	146
Eastern	125
Onslow	62
Western	73
Lambton (excluding the Central Area Zone)	55
Central Area Zone	No limits

- All gaming machine venues must have a current on-licence with a designation, a club liquor licence, or a permanent club charter, under the Sale of Liquor Act 1989. <sup>2</sup>
- Applications seeking Ministerial discretion to increase the number of gaming machines at a club venue above 9 will not receive local authority consent
- Applications seeking Ministerial discretion to increase the number of gaming machines at a club venue, as the result of clubs merging, will receive consent, subject to the limits prescribed by the Gambling Act
- Meeting application and fee requirements
- Obtaining any necessary resource consents under the Wellington City District Plan or Resource Management Act.

### **Where TAB venues may be established**

TAB venues may be established anywhere in the Wellington District, subject to the provisions of the Wellington City District Plan and meeting application and fee requirements.

### **Applications and fees for consents**

All applications for consents must be made on the approved form. All applications will incur a fee, to be known as the Gambling Venue Consent Fee, which is prescribed by the Council pursuant to section 150 of the Local Government Act 2002. Fees will be charged for consideration of applications, at the rate of \$90 per hour (GST inclusive). A deposit can be required, with the actual fees incurred coming firstly off the amount of the deposit.

### **Decision making**

The Council has 30 working days in which to determine a consent application.

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<sup>2</sup> Note 1. applications where the operator is trading on a temporary authority under the Sale of Liquor Act 1989 will not be determined until an on licence has been granted for the operator.

## APPENDIX 2 – Statement of Proposal Appendix B

That decision will be made at officer level pursuant to delegated authority and be based on the criteria detailed in this Policy.

In the case of an application relating to a class 4 venue-

- The assessment of the number of gaming machines in the Wellington district will be based on Department of Internal Affairs' official records.

### Appeals

Applicants have the right to request a review of the decision by Council officers, if it is believed that an error of fact or process has been made.

### Monitoring and review

The Council will complete a review of the policy within 3 years of its adoption, in accordance with the special consultative procedure outlined in the Local Government Act 2002. Subsequent reviews will take place on a three-yearly cycle, as required by the Gambling Act 2003.

### Commencement of Policy

The policy will take effect from the time the Council resolves to adopt it. The March 2004 policy will cease to have effect on the adoption of this policy.

### Explanation of terms

**Class 4 Venue** - The Act categorises gambling activities according to their intensity and potential for harm. Class 4 gambling (non-casino gaming machines) is the highest-risk form outside of a casino. Racing and sports betting, which are covered by the Racing Act 2003, do not fall within this classification system

**Gaming Machine** – Refers to Class 4 non casino gaming machines

**TAB/Board Venue** - The Racing Act 2003 specifies that a Board venue means the premises that are owned or leased by the New Zealand Racing Board and where the main business carried on at the premises is providing racing betting or sports betting services.