

CURRENT

CLASS 4 GAMBLING VENUE POLICY

The purpose of this policy is to state how Council will fulfil its legislative responsibilities pursuant to the Gambling Act 2003.

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REVISION HISTORY

<i>Revision #</i>	<i>Policy Sponsor</i>	<i>Approval Date and date of next scheduled review</i>	<i>Council or Committee Decision</i>	<i># TRIM Reference</i>	<i>Related Operating Guidelines</i>
1	General Manager City Environments	22 August 2013 Review by August 2016	Council	D-1015398	None

1. POLICY OBJECTIVES AND SCOPE

The purpose of this policy is twofold:

- to provide for the continued availability of Class 4 gambling within Hamilton City in accordance with the purpose and intent of the Gambling Act 2003 and
- to encourage a decrease over time in the number of class 4 venues and gambling machines authorised in Hamilton city.

This policy applies to:

- All venues / societies wanting to increase the number of gambling machines able to be operated at any venue regardless of the date at which the venue operated gambling machines, and
- All new Class 4 gambling venues, and
- All venues established after 17 October 2001, and
- All venues for which no Class 4 venue licence has been held for the last 6 months.

2. STRATEGIC ALIGNMENT

This policy assists in the delivery of Councils outcomes and goals as follows:

PROSPEROUS AND INNOVATIVE	OUTSTANDING CITY LEADERSHIP	PEOPLE LOVE LIVING HERE
<ul style="list-style-type: none"> ▪ Hamilton has a strong, productive economy and we build on our economic strengths. ▪ We have a thriving CBD. ▪ It's easy to do business here. ▪ Our city grows and prospers in a sustainable way. 	<ul style="list-style-type: none"> ▪ The city is led by effective, open and responsive governance. ▪ Council's finances are sustainable for the long term. ▪ We operate efficiently and provide exceptional service. ▪ The city takes a leadership role regionally and nationally. 	<ul style="list-style-type: none"> ▪ Hamilton embraces the Waikato River and it is the focal point of our city. ▪ We value, preserve and protect Hamilton's natural, green environment. ▪ Our city is attractive, well-designed and compact with outstanding architecture and distinctive public spaces. ▪ Our city is a fun place to live with a vibrant Arts scene. ▪ Hamilton is a safe city. ▪ It's easy to get around. ▪ We celebrate our people and many cultures.

■ = primary contribution

3. DEFINITIONS

Adjoin: allotments either sharing one or more common boundaries or separated only by a road width or similar equivalent.

Adjacent: allotments sharing one or more common boundaries.

Allotment: a) any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not:-

- i). the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
- ii). a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or

- b) any parcel of land or building or part of a building that is shown or identified separately:-
 - i). on a survey plan; or
 - ii). on a licence within the meaning of Part I of the Companies Amendment Act 1964; or
- c) any unit on a unit plan; or
- d) any parcel of land not subject to the Land Transfer Act 1952.

APA: the amenity protection area designated within a zone, as defined in the Hamilton City Operative District Plan (July 2012) or any subsequent amendments.

CBD area: the City Centre zone and Commercial Service zone surrounding the City Centre zone as shown in the CBD Area map, Schedule 2.

Class 4 gambling venue (Venue): a place located on one or more contiguous allotments at which gambling machines are located, or for the purposes of application at which it is proposed that gambling machines be located.

Gambling machine: refer to definition of 'Gaming Machine' in Gambling Act 2003.

Place: includes —

- a). a building, structure or tent whether fully or partly constructed; and
- b). a room in a building or structure; and
- c). a court or a mall; and
- d). land; and
- e). a vehicle, vessel, or aircraft; and
- f). a caravan or a trailer or other conveyance.

Premises: building in which a venue is located.

Primary Activity: the activity(s) primarily associated with and promoted by the venue.

Private Club: refer to definition of 'Club', and in this context meeting the criteria of operating as a club as defined in Section 65 (3), in the Gambling Act 2003.

School/Licensed early childhood centre: as defined in Sections 2 and 308 of the Education Act 1989 respectively.

Society: a corporate society as defined in the Gambling Act 2003 (including reference to Section 33), which has an operator's licence for Class 4 gambling machines.

TAB Board Venues: 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 under the Racing Act 2003 (the Act).

Venue: same meaning as Class 4 gambling venue.

Zone: an area of the city, defined as a zone in the Hamilton City Operative District Plan (July 2012) or any subsequent amendments.

4. PRINCIPLES OF THE POLICY

- Council supports the purpose and intent of the Gambling Act 2003.
- Council recognises the CBD area of Hamilton City as the preferred locality for Class 4 gambling within the city

- Council seeks to avoid the establishment of Class 4 gambling activities in locations close to residential areas, or other identified sensitive land uses and/or the proliferation of Class 4 gambling venue strips or blocks within the city.
- Venue Consents will be limited to the relocation of a venue or to the merging of private clubs.
- Council encourages responsible gambling practices and attitudes in Class 4 gambling venues.
- Council will facilitate community access to information about the funds produced and distributed from Class 4 gambling within the city.
- Council will ensure as far as practicable that actual and reasonable costs relating to venue consent applications are borne by the applicant(s).

5. POLICY GUIDELINES

5.1 Exemptions from Meeting Parts of the Policy

- (i) Notwithstanding any other condition in this policy, where a legally established venue is required to apply for a venue consent at a new site because its existing site has been rendered physically incapable of being reused for the purpose of the venue (meaning a fire, earthquake or similar event), Council will consider the application under the venue policy for a venue consent, except that in relation to Section 5.3 of this policy, the consent shall allow for up to the number of gambling machines the venue was licenced for immediately prior to the cessation of activity. Where the society has ceased operating at any site under this part of the policy it must demonstrate that it has a current approval from the Secretary of Internal Affairs for the venue to remain inactive but licenced, under Section 71 (1)(g) of the Gambling Act 2003.
- (ii) Notwithstanding any other provisions within this policy, venues first established and licenced with the Department of Internal Affairs as class 4 gambling venues between 18 October 2001 and 19 September 2003, as identified in Schedule 1 of this policy are exempted from complying with:
 - Section 5.2,
 - Section 5.3 (i),
 - Section 5.5 (i) a,
 - Section 5.6 (i) and (iii),
 - Section 5.7 (i) to (ii),
 - Section 5.8 (iv) to (vi),

provided that the venue has not subsequent to 19 September 2003 had a period of six months or more where no society held a Class 4 venue licence for that venue.

5.2 Issuing of new venue consents

- A new Venue Consent will only be issued by Council in the following circumstances:
 - (i) where two or more private clubs undertake to merge and consolidate the operation of their class 4 gambling activities at a single venue and the application meets all other provisions of this policy;
- For clarity, depending on the proposed number of gambling machines to be operated, the merge of private clubs may or may not require Ministerial approval under Section 95 of the Gambling Act.

- (ii) where a society undertakes to permanently close an existing class 4 gambling venue as part of an application for a new Venue Consent and;
 - a. undertakes to surrender the existing venue licence for the venue that will cease to have gambling machines, and
 - b. can ensure to Council's satisfaction that a new class 4 venue licence will not be able to be obtained by any society within 6 months of surrendering an existing venue licence under clause 5.2 (ii) a, and
 - c. the application meets all other provisions of this policy.

5.3 Numbers of gambling machines to be allowed – per venue

- (i) Subject to meeting the other requirements of this policy, venues may operate up to a maximum of 9 gambling machines per venue.
 - (ii) Two or more private clubs which merge may consolidate the number of gambling machines being operated at the merged private club venue to the lesser of:
 - a. 24 gambling machines or
 - b. the sum of the number of gambling machines previously operated by each private club individually.
- For clarity, the merged private club must operate within a Gambling Permitted Area, but may operate outside the CBD. It is noted that the private clubs must first obtain Ministerial Consent under Section 95 of the Gambling Act 2003 to obtain a licence to operate up to a maximum of 24 gambling machines.

5.4 Primary activity of class 4 gambling venues

- To be considered for a venue consent under this policy, a venue must either:
 - (i) be a TAB Board Venue or,
 - (ii) be a venue with an 'on' or a 'club' liquor licence, or a permanent charter under the Sale and Supply of Alcohol Act 2012 and the primary activity of the venue shall be:
 - a. for sporting activities, or
 - b. for private club activities, or
 - c. for the sale of liquor, or for the sale of liquor and food, for consumption on the premises.

5.5 Areas of the city where class 4 gambling venues may be established

- (i) Class 4 gambling venues may only be established:
 - a. within the Gambling Permitted Area shown in Schedule 2, subject to meeting the other conditions of this Policy or
 - b. on land within the recreation major zone or recreation general zone as defined in the Hamilton City Operative District Plan (July 2012), subject to meeting the other conditions of this Policy, and the venue being a recognised sports or other recreational non-profit club operating as an incorporated society.
- (ii) Class 4 gambling venues may not be established on any land comprising the residential zone or in any community facilities zone, future urban zone, major facilities zone, recreation environment zone, as defined in the Hamilton City Operative District Plan (July 2012) or any subsequent amendments.

5.6 Restrictions on the location of venues and proximity to other activities

- (i) Venue premises located within the CBD Area shall not be adjacent to any other Class 4 gambling venue or casino

- (ii) Venue premises located outside the CBD Area shall not be within 50 metres (in a straight line) of the principal entrance of any other class 4 gambling venue or casino
- (iii) The venue place shall not adjoin any school, or licenced early childhood centre
- (iv) The principal entrance of the venue premises shall not be located closer than 100 metres (in a straight line) to any residentially zoned land or community facilities zoned land.

5.7 Other criteria

- Requirements applying to all locations:
 - (i) The applicant shall provide a declaration that the gambling area in a venue will not have a separate entrance, separate name, or otherwise seem to be separate from the primary activity of the venue.
 - (ii) The society applying for and/or operating a Venue Consent must supply Council, as and when reasonably requested, details of successful and unsuccessful grant applications in an agreed electronic format. Electronic details should include the name of the applicant club and/or individual applying, the amount sought, the amount granted, the applicant's address, and the purpose for which the funds will be applied.
 - (iii) The applicant must meet all relevant declaration, and fee requirements.

5.8 Applications for a venue consent (Contents of Application)

- Applications for a Venue Consent must be made on the approved form and must provide:
 - (i) Name and contact details for the application, including the society name, the venue trading name(s), any other name(s) related to the venue, and the venue operator's name(s),
 - (ii) Street address of premises proposed for the Class 4 venue,
 - (iii) A specific legal description with deposited plan where required clearly identifying the area where the venue is proposed to be located,
 - (iv) The names of key persons at the society and the venue,
 - (v) If not in the CBD area, a declaration certified by a registered surveyor that the distance to the nearest residentially zoned or community facilities zoned land, and to the nearest school, or registered early childhood centre or kindergarten, and to other Class 4 gambling venues, are not within the proximity conditions detailed in the policy,
 - (vi) Details of liquor licence(s) applying to the premises,
 - (vii) Other relevant information requested by the territorial authority.

5.9 Hearings process

5.9.1 Discretionary Provisions

- A hearings process will be instituted where an application:

- (i) Does not comply with the provisions of Section 5.5 subsection (i) (a) insofar as the proposed venue is not located within the Gambling Permitted Area but is within an adjoining APA area of an industrial zone, and/or
 - (ii) Does not comply with Section 5.6 subsection (i), and/or
 - (iii) Does not comply with Section 5.6 subsection (ii), and/or
 - (iv) Does not comply with Section 5.6 subsection (iii), and/or
 - (v) Does not comply with Section 5.6 subsection (iv).
- Notwithstanding this, where an application does not comply with any other provision in this Policy, the application will be declined.

5.9.2 Process

- Venue consent applications received and identified as complying with all conditions and provisions of this policy, except one or more of the discretionary conditions, will be notified.
- Under this policy, the Statutory Management Committee (Committee) has delegated authority to appoint one or more Commissioners to the Committee for the purposes of this policy, and to conduct hearings and make decisions on applications at those hearings.
- A hearing date will be set, and submissions invited from affected parties and the public (see 'Notification').
- Submissions in writing shall be invited over a period of not less than 7 working days, with submitters invited to indicate if they wish to be heard on the hearing date.
- The Committee shall consider all submissions (written and oral), and shall make a decision (including reasons) on the application. The Committee's decision shall be final.
- The applicant and all submitters shall be advised of the decision, and the reasons for the decision, as soon as practicable.
- In considering any application and submissions, the Committee shall have regard to provisions of the Gambling Act 2003, the Objectives of this policy (see Section 1), and the criteria outlined for Hearings Considerations in this section.

5.9.3 Notification

- Any venue consent application requiring a hearing shall be publicly notified as follows:
 - in the public notice section of a local newspaper circulating within the city, within 13 working days of receipt of the application
 - by way of a public notice displayed prominently in the window of the proposed venue for the period during which submissions are open
 - by the direct notification in writing of all owners and residents of any property where any part of that property is located within 100m of the subject site.

5.9.4 Hearings Considerations

- The Committee would consider each application on its merits, judged against the following criteria:

- (i) The extent to which the application meets the objectives of the Hamilton City Council Class 4 Gambling Venue Policy, and the purpose and intent of the Gambling Act 2003, and
- (ii) That the extent to which an application that does not meet a discretionary provision is of minor (de minimis) effect, and
- (iii) The extent of the potential impact on the character of the zoned area/ locality, and
- (iv) The potential cumulative effects of additional gambling in that locality, and
- (v) Whether the venue has reasonable potential to have a negative effect on the operation, amenity, or reasonable enjoyment of residential and/or sensitive land uses in the locality.

5.10 Application fees

- (i) Where an application meets all of the criteria within the Venue Policy, and no hearing is required, a non-refundable fee of \$600 (inclusive of GST) must accompany an application for a venue consent, or the consent will not be granted. It is recommended that a society check an application for compliance with the policy, and whether gambling machines are available under the city cap, prior to submitting the application.
- (ii) Where an application does not meet all of the criteria within the Venue Policy, a deposit of \$1,400 must accompany the application for the application to be considered. In this event:
 - a. Charges will include actual and reasonable costs of processing the application, including but not limited to any notification, consultation, hearings, administration costs, legal costs, and inspection.
 - b. The deposit will be utilised to pay for costs and fees associated with the application, and any further costs or disbursements will be charged to the applicant in the event the deposit is all used up. Where applicable, any unused portion of the deposit will be refunded.
 - c. All fees and costs must be paid in full prior to a consent being issued.

6. MONITORING AND IMPLEMENTATION

The General Manager City Environments will monitor the implementation of this policy.

The policy will be reviewed every three years as required by the Gambling Act 2003, or at the request of Council, or in response to changed legislative and statutory requirements, or in response to any issues that may arise.

7. REFERENCES

- Gambling Act 2003

SCHEDULE 1 – SITES IDENTIFIED FOR THE PURPOSES OF SECTION 4(II)

Sites identified for the purposes of Section 4 (ii) of the Hamilton City Class 4 Gambling Venue Policy are:

- (i) 742 Victoria Street - Lot 1 DPS 5043 (currently known as 'Biddy Mulligans Irish Pub
- (ii) Shop 13 Chartwell Shopping Centre - PU12, DPS 76410 (currently known as 'Still Working')
- (iii) 236 Peachgrove Road - PUGZ, DPS 68671 (currently known as '5 Crossroads Sports Bar & Cafe').

SCHEDULE 2 – GAMBLING PERMITTED AREAS

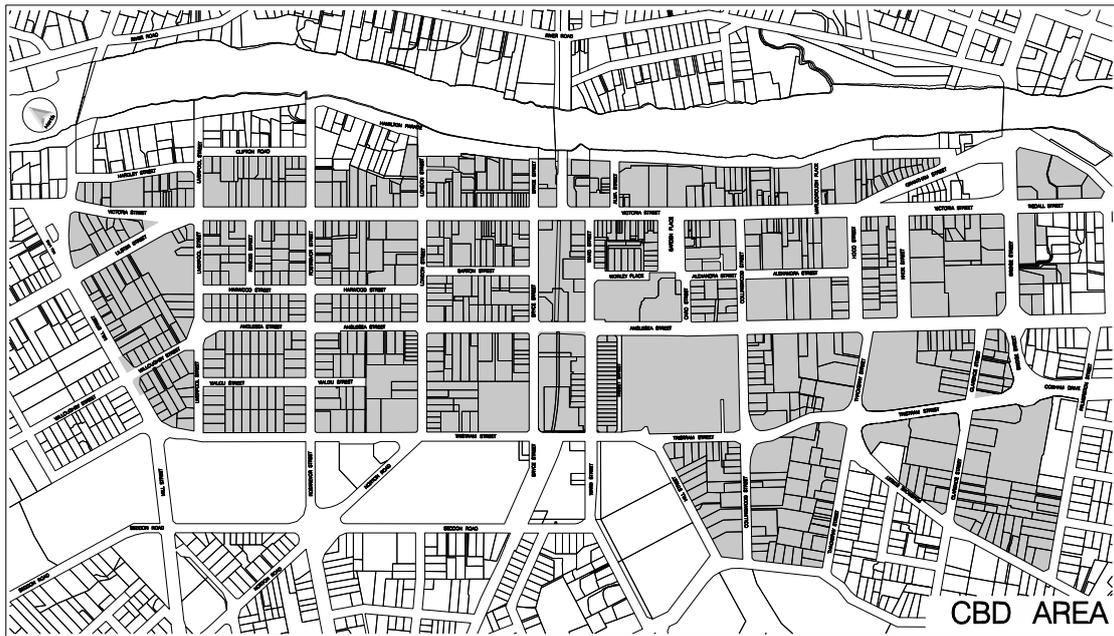
The Gambling Permitted Area is indicated by the grey shaded areas of the following maps:

- (i) Gambling Permitted Area – Northern Te Rapa
- (ii) Gambling Permitted Area – Southern Te Rapa
- (iii) Gambling Permitted area – Frankton Industrial
- (iv) Gambling Permitted Area – CBD
- (v) Gambling Permitted Area – Hamilton East
- (vi) Gambling Permitted Area – Frankton Commercial
- (vii) Gambling Permitted Area – Dinsdale
- (viii) Gambling Permitted Area – Claudelands
- (ix) Gambling Permitted Area – Chartwell

Gambling Permitted Area — Frankton Industrial



Gambling Permitted Area — CBD



Gambling Permitted Area — Hamilton East



Gambling Permitted Area — Frankton Commercial



Gambling Permitted Area — Dinsdale



Gambling Permitted Area — Claudelands



Gambling Permitted Area – Chartwell

