

# SOUTH WAIRARAPA DISTRICT COUNCIL

3 APRIL 2013

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## AGENDA ITEM C7

### APPLICATION FOR CONSENT FOR A CLASS 4 GAMBLING VENUE

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#### **Purpose of Report**

To inform Council about an application for consent for a class 4 gambling venue.

#### **Recommendations**

Officers recommend that the Council:

1. *Receives the information.*
2. *Grants the application on the basis that extraordinary circumstances warrant dispensation allowing the venue to be considered an "existing venue" even though the venue exceeded the six-month machine non-operation period; or*
3. *Deems that the application is for a new gaming machine venue (as the venue ceased operation for more than six months) and allow the application to proceed in accordance with clause 5.0 of the Policy. This would include public notification for eventual hearing by the Hearings Committee; or*
4. *Deems that the application is for a new gaming machine venue (as the venue has ceased operation for more than six months) and decline the application on the basis that it does not meet the requirements of the Policy.*

#### **1. Executive Summary**

Prime Community Trust (PCT) has applied to Council for a class 4 gambling consent for the premises at 57 Fox Street, Featherston. This site was formerly run by the Featherston RSA. It is now leased to Toppo's Catering Limited (Toppo's) to operate as a tavern and restaurant.

Council's Revised Gambling Venues Policy 2012 (the Policy) states that if a venue ceases to operate gaming machines for any period longer than six months it will not be regarded as an "existing venue". Clause 2.1 of the Policy states that no additional new gaming machine venues will be permitted in the Wairarapa Region.

The Featherston RSA did not renew its gambling licence when it expired on 31 July 2012. Consequently gaming machines have not operated at the site for close to 8 months.

PCT have made this application on the basis that the circumstances are sufficiently extraordinary to warrant departure from the Policy.

## **2. Background**

The Featherston RSA had a class 4 gambling licence for many years. The DIA website on 31 December 2012 lists this as a venue with 8 gaming machines. It has also held a Club Liquor Licence for many years.

In late 2012 the Featherston RSA leased its premises to Toppys. Toppys applied to the (SWDC) Liquor Licensing Agency for a liquor licence on 30 November 2012. This licence could not issue until the RSA surrendered its Club Liquor Licence (it's illegal to have two licences for the same premises). The RSA did not surrender its licence until 23 January 2013. The Licensing Agency issued the on-licence to Toppys on the same day.

A liquor licence is required as part of the gambling consent application.

## **3. Discussion**

### **3.1 Revised Gambling Venues Policy 2012**

Council is required by legislation to have a policy in line with the Gambling Act 2003 (the Act). The purpose of the Policy is to minimise harm from problem gambling at class 4 gambling venues in their communities. The Wairarapa-wide policy is intended to provide consistency across the region. The Policy:

- States that there will be no consents granted for any new class 4 venue in Masterton, Carterton and South Wairarapa Districts. The effect in these districts is that if a venue ceases to operate gaming machines no new venue can take its place.
- Provides that gaming machine venues existing or consented in 30 June 2011 and not ceasing operations for any period longer than six months will be regarded as existing venues under this policy, and will be granted consent to continue their operations.

### **3.2 Clause 3.1 of the Policy and "extraordinary circumstances"**

It is worth noting clause 3.1 of the policy which mentions "extraordinary circumstances". This clause applies when an existing venue has to move because the owner or lessee cannot continue to operate at that existing site. Council in that instance may permit a class 4 venue to re-establish at a

new site in extraordinary circumstances. Examples of such circumstances are set out in the clause and include (but are not limited to) the following:

- (i) expiration of the lease; or
- (ii) acquisition of the property under the Public Works Act; or
- (iii) site redevelopment.

Officers do not consider that the clause is applicable in this situation.

### **3.3 Legal Implications**

#### **3.3.1. *The Gambling Act 2003***

The Department of Internal Affairs (DIA) administers and enforces gambling regulations in New Zealand and grants gaming licences to conduct class 4 gambling under the Act. As part of the licence approval the DIA requires territorial authority consent. When a territorial authority receives an application it must (pursuant to section 100 of the Act):

- (a) consider the application in accordance with its class 4 venue policy; and
- (b) then either –
  - a. grant the consent with or without a condition specifying the maximum number of gaming machines that may be operated at the venue; or
  - b. not grant the consent.

### **3.4 Financial Implications**

Officers are not aware of any financial implications.

## **4. Appendices**

Appendix 1 – Revised Gambling Venues Policy 2012

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**Appendix 1 – Revised  
Gambling Venues Policy  
2012**



## REVISED GAMBLING VENUES POLICY 2012

### **Introduction**

*The Gambling Act 2003 (the Act) that came into effect on 18 September 2003 requires territorial local authorities to have in place a policy that:*

- *specifies whether or not class 4 venues (hereafter referred to as gaming machine 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 nine machines on gaming machines venues)*
- *specifies whether or not TAB stand-alone venues may be established in the district.*

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

*The Wairarapa District Councils jointly adopted a gambling venues policy in March 2005 and reviewed it in 2008.*

### **1.0 Objectives of the policy-**

- 1.1 To minimise the harm to the community caused by Class 4 gambling.
- 1.2 To control the growth of Class 4 gambling in the Wairarapa Region.
- 1.3 To ensure that Councils and their communities have influence over the provision of new Class 4 gambling in the Wairarapa Region.

### **2.0 New Class 4 gambling venues may be established in the Wairarapa Region subject to the following restrictions-**

- 2.1 The number of gaming machine venues operating or consented in the Wairarapa Region as of 30 June 2011 (19) will not be allowed to increase i.e. no additional new gaming machine venues will be permitted. There will be no consents granted for any new class 4 venue in Masterton, Carterton and South Wairarapa Districts except as provided for in clause 3.4. The effect in those districts is that if a venue ceases to operate gaming machines no new venue can take its place.

This will mean that Masterton will have a maximum of eight venues, Carterton a maximum of four and South Wairarapa will have a maximum of seven.

- 2.2 Gaming machine venues existing or consented in 30 June 2011 and not ceasing operations for any period longer than six months will be regarded as existing venues under this policy, and will be granted consent to continue their operations automatically.
- 2.3 Where two or more clubs merge the combined club may:
- 1) Continue to operate existing venues.
  - 2) Operate on an existing single venue, which will be regarded as an existing venue for the purposes of this Policy, subject to section 4.4 of the policy.
  - 3) Apply to the Council for a single new venue to be established subject to section 3 of this Policy, provided that all existing venues are closed, subject to section 4.4 of the Policy.
- 2.4 No limit will be imposed on the number of stand alone TAB Venues.
- 2.5 New Class 4 gambling venues may be established subject to compliance with the Wairarapa Combined District Plan, fee and application requirements, and the conditions set out below.

**3.0 The location of new Class 4 gambling venues will be subject to the following conditions-**

- 3.1 a) Council may permit a class 4 venue to re-establish at a new site where, due to extraordinary circumstances, the owner or lessee of the class 4 venue cannot continue to operate at the existing site. Examples of such circumstances include, but are not limited to, the following:
- i expiration of the lease; or
  - ii acquisition of property under the Public Works Act; or
  - iii site redevelopment
- b) Any permission to establish any new class 4 venue under this clause will be subject to the following conditions:
- i. the gambling venue operator at the new site shall be the same venue operator at the site to be vacated;
  - ii. the number of gaming machines permitted to operate at the new venue will not exceed the number permitted to be operated at the existing site with a maximum of nine machines as provided by Section 94 of the Gambling Act 2003.
- c) A TAB stand-alone venue with gaming machines would be considered as an alternate venue if a Class 4 Venue closed subject to the conditions in this policy for Class 4 venues and conditions in the TAB Venues Policy.
- 3.2 New Class 4 gambling venues will not be permitted where the Council believes that the character of the district, or part of the district, for which the venue is proposed will be adversely affected, or where there is likely to be an adverse effect on any kindergartens, early childhood centres, schools, places of worship, or other community facilities.
- 3.3 To aid the Council in determining whether there is likely to be an adverse effect, all applications are required to be publicly notified. Applications will be determined by the Hearings Committee of the Council, which may receive submissions from the applicant and any interested parties at a public hearing.

- 3.4 Except in the case of a TAB stand-alone venue Class 4 gambling venues will not be approved outside premises authorised under the Sale of Liquor Act 1989 to sell and supply liquor for consumption on the premise, and where the gaming area is designated as restricted and is visually and physically separated from family or children's activities.

**4.0 Restriction on the number of gaming machines that are permitted to operate at any venue or class of venue -**

- 4.1 No increase in the number of gaming machines currently operating or consented in the Wairarapa Region as of 30 June 2011 (242) will be permitted.)

- 4.2 Further to the provision above, no additional new gaming machines will be approved in any district beyond the number operating as of 30 June 2008, i.e.

Masterton	116
Carterton	50
South Wairarapa	76

In Masterton, Carterton and South Wairarapa District Councils any gaming machine that is relinquished for a period of longer than six months may not be replaced on that site and may not be transferred to another site under any circumstances.

- 4.3 No venue may operate more than 18 gaming machines if existing at 17 October 2001 and not ceasing operations for any period longer than six months, or more than nine machines if not existing prior to the 18 October 2001 or having ceased operations for any period longer than six months.

- 4.4 Where two or more club venues merge, the combined club may operate the lesser of 18, or the number of gaming machines both clubs operated immediately prior to the merger, subject to section 2.4 and 5.1.6 of this policy.

**5.0 Applications-**

- 5.1 Applications must be made on the approved form and must provide:

5.1.1 A scale site plan covering both gambling and other activities proposed for the venue including any screening or separation from other activities proposed.

5.1.2 Evidence of the authority to sell or supply liquor for consumption on the premise under the Sale of Liquor Act 1989.

5.1.3 Name and contact details of the applicant.

5.1.4 Street address of the proposed or existing Class 4 gambling venue or TAB.

5.1.5 A copy of any certificate of compliance or resource consent required for the primary activity of the venue under the Wairarapa Combined District Plan.

5.1.6 Where the application relates to the merging of two or more clubs, details of the number of machines operated at each venue immediately

prior to merger and the number of machines intended to be operated at each site as applicable.

## **6.0 Application Fees-**

- 6.1 Fees will be set by the Councils annually and will include consideration of the cost of :
- i. processing the application.
  - ii. establishing and triennially reviewing the Gambling Venue Policy.
  - iii. the triennial assessment of the economic and social impact of gambling in the Wairarapa.

## **7.0 Review of Policy-**

- 7.1 The policy will be reviewed every three years.