

P17-005 New Plymouth District Class 4 Gambling Venues Policy

Approved by the Council on 14 November 2017. Reviewed and amended 22 December 2020.

The Council is required to adopt a class 4 gambling venues policy under the Gambling Act 2003. This policy supports the purpose and intent of the Gambling Act 2003 with regard to the regulation and management of class 4 gambling venue premises. Class 4 Gambling refers to gambling on gaming machines hosted in pubs, hotels and clubs.

Policy Purpose

To minimise the harm caused by gambling in the New Plymouth District and to control the location of Class 4 gambling venues and the number of gaming machines.

Class 4 Gambling Venues Policy

1.0 Establishment of Class 4 Gambling Venues

- 1.1 Class 4 Gambling Venues may be established in the District provided that:
 - a) The primary activity of the venue is:
 - (i) for the sale of alcohol or, the sale of alcohol and food and the venue is subject to a valid on licence or club licence; or
 - (ii) for sporting or club activities and the venue is subject to a valid on licence or club licence and is not associated with family or children's activities; or
 - (iii) TAB venue as defined by the Racing Industry Act 2020;
 - and
 - b) The venue is permitted under the New Plymouth District's current operative District Plan and/or holds all necessary resource consents and/or is otherwise lawfully established.
- 1.2 For the avoidance of doubt, a Class 4 Gambling Venue is not permitted in the District if Class 4 Gambling is the primary activity carried out at the venue.
- 1.3 There is no cap on the number of Class 4 Gambling Venues that may operate in the District.

2.0 Number of gaming machines

- 2.1 The total number of gaming machines that may be operated in Class 4 Gambling Venues in the District, excluding Waitara, is 300.
- 2.2 A sinking lid policy will apply in Waitara, until the total number of gaming machines that may be operated in Class 4 Gambling Venues in Waitara is reduced to 25. Once there are no more than 25 gaming machines permitted to operate in Waitara, the maximum number that may be operated in Waitara will be capped at 25.

- 2.3 For the avoidance of doubt both the cap and sinking lid referred to in clauses 2.1 and 2.2 are calculated by adding both operative and sleeping machine numbers.

New venues

- 2.4 The maximum number of gaming machines that will be permitted at new venues is 9, provided the maximum number permitted in the District is not exceeded.

Existing venues

- 2.5 The maximum number of gaming machines permitted at existing venues are as follows:

- a) For venues that held a gaming machine licence on 17 October 2001, which have not been without a licence for six months or more since that date: 18 machines or the number of machines lawfully operated on that date, whichever is the lesser;
- b) For all other existing venues: 9 machines or the number of gaming machines approved previously by the Minister under section 96 of the Act.

Merged clubs

- 2.6 The maximum number of gaming machines that will be permitted in a merged club venue is the lesser of: 18 machines or the sum of the number of gaming machines specified in each of the clubs' class 4 venue licences at the time of the merge.

Relocated clubs

- 2.7 The maximum number of gaming machines that will be permitted to operate in a relocated club at the time when the new class 4 venue licence takes effect for the new venue is the same as the maximum number of gaming machines permitted to operate at the old venue immediately before the licence relating to the old venue is cancelled.

3.0 Location of Class 4 Gambling Venues¹

- 3.1 New Class 4 Gambling Venues may be established in:

- a) the New Plymouth CBD Area; Waitara Town Centre Area and Inglewood Town Centre Area; or
- b) areas zoned as Business Environment Areas (A, B, C or D) in the New Plymouth District Plan, provided the venue is not:
 - (i) within 50 metres of any land that is zoned as Residential (A, B or C) Environment Area or Rural Environment Area in the New Plymouth District Plan; and/or
 - (ii) within 100 metres of a Sensitive Site.

¹ Note: The locational restrictions for this policy relate to the current operative District Plan (as at the date this policy is adopted), once the Proposed District Plan is adopted this policy will be reviewed with respect to the new zonings.

- 3.2 For the purposes of clause 3.1, distances are measured along the shortest possible publicly accessible route from the site boundary of the venue to:
- (a) in the case of a zone or area: the boundary of the zone or area; and
 - (b) in the case of a sensitive site: to the site boundary of the sensitive site.
- 3.3 The Council will not grant consents for Class 4 Gambling Venues to establish in any locations other than those referred to in clause 3.1.
- 3.4 Clause 3.3 does not apply to:
- a) An existing Class 4 Gambling Venue, which is subject to an application to renew the venue's Class 4 Gambling Venue licence where there is no change in the venue's location and the renewal application has not been refused; or
 - b) An existing Class 4 Gambling Venue that holds a current Class 4 Gambling licence, which is subject to an application to merge with another club and is the proposed venue for two or more merged clubs to operate from; or
 - c) An existing Class 4 Gambling Venue, where the venue is unable to continue to be used as a Class 4 Gambling Venue due to a natural disaster or fire and an application for territorial consent is received in respect of the same site within 12 months of the previous venue's licence having lapsed or been cancelled.

4.0 Relocation Policy

- 4.1 The Council may grant territorial consent for an existing venue to re-establish at a new venue (the replacement venue) where the replacement venue is intended to replace the existing venue if it is satisfied that:
- a) The existing venue has ceased to operate, is unable to continue to be used as a Class 4 Gambling venue, or the nature of the Class 4 Venue has changed;
 - b) The Class 4 Gambling Licence held for the current venue has been / will be surrendered;
 - c) The replacement venue will be operated by the same corporate society which operated the existing venue;
 - d) The replacement venue holds a current Class 4 Gambling venue licence and will operate the same number of machines (or less) as the existing venue, subject to any restrictions applicable under the Act;
 - e) The replacement venue is in the New Plymouth CBD Area, or in the same Town Centre Area or suburb as the existing venue;
 - f) The replacement venue is not located within 100m of a Sensitive Site; and
 - g) The replacement venue meets the other relevant requirements of this Policy and the Act and is consistent with the objectives of each.
- 4.2 For the avoidance of doubt, the merging of existing venue conditions and replacement venue conditions is not permitted.

5.0 Application for Territorial Consent

- 5.1 Territorial consent is required:
- a) For a new class 4 gambling venue;
 - b) To increase the number of gaming machines at a class 4 gambling venue, including for a merged club venue; and
 - c) To relocate a class 4 gambling venue.
- 5.2 An application for territorial consent must be made on the prescribed form and be accompanied with all information required by the Council, to enable it to properly consider the application. The application form can be found at the link at the bottom of this page.
- 5.3 The Council will assess, consider and determine the application in accordance with the requirements of this policy and the Act.
- 5.4 The Council may set a non-refundable application fee for the cost of processing any applications for territorial consent, in accordance with the Local Government Act 2002.

Definitions

This policy has the following definitions:

Act means the Gambling Act 2003.

Class 4 Gambling has the same meaning as set out in 30 of the Act, which is:

“Gambling that satisfies the following criteria:

- (a) the net proceeds from the gambling are applied to, or distributed for, authorised purposes; and
- (b) either –
 - (i) no commission is paid to or received by a person for conducting the gambling; or
 - (ii) the only commission that is paid to or received by a person for conducting the gambling is a commission payment to a venue operator that complies with regulations made under section 371(1)(dd) of the Act; and
- (c) there are game rules for the gambling; and
- (d) the gambling, and the conduct of the gambling satisfies relevant game rules; and
- (e) either –
 - (i) the Secretary has categorised the gambling as class 4 gambling and not as another class of gambling; or
 - (ii) the gambling utilises or involves a gaming machine.

Class 4 Venue has the same meaning as given in section 4 of the Act, which is:

“ a place used to operate Class 4 Gambling”.

Club has the same meaning as given in section 4 of the Act, which is:

“a voluntary association of persons combined for a purpose other than personal gain”.

Corporate Society has the same meaning as given in section 4 of the Act, which is:

“A society that is:

- a) incorporated under the Incorporated Societies Act 1908; or
- b) incorporated as Board under the Charitable Trusts Act 1957; or
- c) a company incorporated under the Companies Act 1993 that;
 - (i) does not have the capacity or power to make a profit; and
 - (ii) is incorporated and conducted solely for authorised purposes; or
- d) a working men’s club registered under the Friendly Societies and Credit Unions Act 1982.”

Council means the New Plymouth District Council.

District means the New Plymouth District.

Environment Area has the same meaning as given in the New Plymouth District Plan, which is:

“An area having a different character from another area and an existing level of amenity. Each may be considered to be similar to a “zone” and includes those areas identified on the planning maps in the New Plymouth District Plan, which include Residential, Rural, Industrial, Business, and Open Space Environment Areas.”

Gaming Machine has the same meaning as given in section 4 of the Act. It is commonly known as a “*Pokie Machine*”.

Inglewood Town Centre Area means the land within the area that is delineated by a red line on Map 1, Schedule 1 that is zoned as Business Environment Area (A, B, C or D) under the New Plymouth District Plan.

Merged club venue where two or more clubs, each with a significant history of operating as a club and holding a class 4 venue licence merge into a single club operating at a single class 4 venue pursuant to section 95 of the Act

New Plymouth CBD Area means the area delineated by a red line in Map 3 Schedule 1 and contained by:

- St Aubyn Street between Liardet Street to Queen Street,
- Queen Street;
- Devon Street West between Queen Street and Robe Street;

- Robe Street between Devon Street West and Powderham Street,
- Powderham Street and Courtney Street between Robe Street and Gover Street,
- Gover Street between Courtney Street and Molesworth Street, and
- Molesworth Street between Gover Street to Liardet Street.

New Plymouth District Plan means the operative district plan in effect for the New Plymouth District at the date this Policy is adopted.

Sensitive site(s) means:

- a) An early childhood centre, kindergarten, child care facility, a primary school and a secondary school (but excluding residential dwellings which are used for the provision of in-home early childcare services);
- b) A recreational facility or open space where facilities have been designed to attract the public, and in particular young people under the legal purchase age (e.g. play grounds, parks, skateboard parks and so on) (but excluding recreational facilities which are administered, managed or funded by privately owned entities for commercial gain);
- c) A community centre or hall where members of a community tend to gather for group activities, social support and related activities, public information, and other meetings and gatherings;
- d) Places of worship; and/or
- e) A hospital, addiction treatment facility, or Well Child / Tamariki Ora programme provider's centre

Site boundary means the boundary of the allotment or legally defined parcel of land upon which a venue or sensitive site is located.

Society has the same meaning as given in section 4 of the Act, which is:

“An association of persons established and conducted entirely for purposes other than commercial purposes”.

Waitara Town Centre Area means the land within the area delineated by a red line and shown on Map 2, Schedule 1 that is zoned Business Environment Area (A, B, C or D) under the New Plymouth District Plan.

Zone means a zone or environment area as defined in the New Plymouth District Plan.

Review of Policy

This Policy shall be reviewed every three years, as required under the Act.

This Policy was adopted on 8 April 2004. Subsequent reviews of this Policy were adopted on 22 May 2007, 6 May 2010, 14 May 2013, 14 November 2017 and 22 December 2020.

Additional Information

The Gambling Act 2003

SCHEDULE 1

Map 1 – Inglewood Town Centre Area



Red line outlines Inglewood Town Centre Area and Business Environment Area A, B, C or D – where new class 4 gambling venues may be established

Map 2 – Waitara Town Centre Area



Red line outlines Waitara Town Centre Area and Business Environment Area A, B, C or D where new class 4 gambling venues may be established

Map 3 – New Plymouth CBD Area



Red line outlines New Plymouth CBD Area where new class 4 gambling venues may be established