



**Local Government New Zealand**  
te pūtakehi matakōkiri

Submission to the  
Government Administration Select Committee  
In the matter of  
The Gambling Amendment Bill  
From *Local Government New Zealand*

11 October 2007

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## Executive Summary

*Local Government New Zealand* consulted with all local authorities in making this submission on the Gambling Amendment Bill. This submission comments only on those aspects of the bill pertinent to territorial authorities. *Local Government New Zealand*:

- supports the proposed amendment to Section 98. It serves to update the legislation and is of no material or negative consequence to territorial authorities
- supports the proposed amendment to Section 100(1)(a). It clarifies the intent of the legislation and is of little material consequence
- supports the proposed amendment to Section 100(1)(b)(i), provided the ability of councils to implement their policy remains
- supports the proposed amendments to Section 100(5). This proposed amendment will prevent the stockpiling of venue consents, and is something that many territorial authorities have been asking for.

## INTRODUCTION

1. *Local Government New Zealand* thanks the Select Committee for the opportunity to submit on the Gambling Amendment Bill.
2. *Local Government New Zealand* is the national representative body for the 85 local authorities across the country.

## PROCESS TO PREPARE THIS SUBMISSION

4. *Local Government New Zealand* contacted all territorial local authorities to provide comments for inclusion in this submission. The feedback received has been used to inform this submission.
5. The timeframe available for comment on the Bill precluded councils from putting the issues to their elected members. Consequently, council input into this submission reflects the views of council staff rather than elected members.

## LOCAL AUTHORITY RESPONSIBILITIES IN RELATION TO GAMBLING

6. Local authorities also have broad responsibilities for promoting the social, economic, environmental and cultural wellbeing of communities under the Local Government Act. Councils implement a wide range of strategies and policies in fulfilling these functions.
7. Territorial Authorities have statutory roles under the Gambling Act in relation to Class 4 gaming. Each local authority is required to adopt a Class 4 venue policy, review this regularly, and administer consents under this policy.
8. Territorial Authorities must adopt a policy specifying whether Class 4 venues may be established and if so where. This policy may specify restrictions on the number of machines. In adopting this policy, the local authority must have regard to the social impact of gambling within its district. In determining whether Class 4 venues may be established, local authorities are required to have regard to a range of community and social factors. The Act also specifies extensive consultation requirements for the policy.
9. Territorial Authorities are responsible for assessing applications for venue consents according to their policy, and then determining whether to decline to grant consent or approve it (with or without specifying the maximum number of machines that may be operated at the venue).

## COMMENTARY ON CLAUSES OF THE BILL RELEVANT TO LOCAL GOVERNMENT

### **Amendment to section 98 - When territorial authority consent is required (ref Clause 40 of the Bill)**

Clause 40 replaced s98, which sets out when territorial authority consent is required under the principal Act. The new section omits provisions that are redundant now that the principal Act is fully in force. The amendments to this section are consistent with those proposed to the rest of the Act, by removing reference to the distinction between licences held before or after 17 October 2001.

#### *Comment*

10. *Local Government New Zealand* supports this clause. It serves to update the legislation and is of no material or negative consequence to territorial authorities

### **Amendment to section 100 - Considering and determining application for territorial authority consent (ref Clause 41 of the Bill)**

Clause 41 amends s100 which relates to considering and determining an application for territorial authority consent, as follows:

- subsection (1)(a) is amended (to add “and determine” after consider) for consistency with the section heading
- subsection (1)(b)(i) is amended to clarify that when granting a territorial authority consent, a territorial authority may not include any other conditions besides specifying the maximum number of gaming machines that may be operated at a class 4 venue
- new subsection (5) is added to provide that a territorial authority consent for a class 4 venue expires after 6 months after its date of issue if a class 4 venue licence has not been issued for the venue.

#### *Comment*

11. *Local Government New Zealand* supports Subsection the amendment of S100 (1)(a). It clarifies the intent of the legislation and is of little material consequence.

12. *Local Government New Zealand* supports the proposed amendment to S100(1)(b)(i), provided the ability of councils to implement their policy remains. These are set out further below.

13. The purpose of the Gambling Act 2003 (as set out in section 3) is to:

- (a) control the growth of gambling
- (b) prevent and minimize the harm caused by gambling, including problem gambling
- (c) authorize some gambling and prevent the rest
- (d) facilitate responsible gambling
- (e) ensure the integrity and fairness of games
- (f) limit opportunities for crime or dishonesty associated with gambling
- (g) ensure that money from gambling benefits the community
- (h) facilitate community involvement in decisions about the provision of gambling.

14. The development of gambling venue policies by local authorities is an important mechanism for fulfilling the purposes of the Act. The process of developing a policy requires community input and assessment of the social impacts of gambling within a local context. It involves consideration of a wide range of factors including the proximity of gambling venues to one another and to sensitive locations such as schools, the cumulative effects of gambling in the district, and the primary activity of any venue. Councils and their communities contribute significant time, energy, resources and funding into the development of these policies.
15. The sole mechanism for implementing the local authority's policy is the venue consent process. It is imperative for the fulfillment of the Act's purpose, and the public's faith in the process that councils have the tools, and the ability, to implement the policies developed in consultation with their communities.
16. We understand from the Department of Internal Affairs, that the proposed amendment to Section 100(1)(b)(i) is intended to clarify the intention of the legislation (and the Department's practice since the Act was introduced); that is, that territorial authorities may not place additional conditions on any venue consent, beyond specifying the number of machines.
17. We understand that councils can consider a range of issues in developing their policy (social impacts, proximity of venues etc.) and in deciding whether to grant a consent. However, (should the amendment goes through) the consent itself can only have conditions relating to the location of the venue and machine numbers.
18. Based on our consultation with the local government sector, there is support for this provision, provided the ability of councils to implement their policy remains.
19. There was some concern within the sector that this amendment could erode the ability of councils to implement their policies and therefore achieve the purpose of the Act, by preventing them from considering and applying the criteria within their policy when determining or issuing venue consents. There was a concern that policies would thus become redundant and some councils perceived a contradiction between the requirements of the gambling venue policy and the limited consent conditions that would be available under this amendment.
20. However, following discussions with the Department and councils, we accept that these concerns will be satisfied if the amendment relates purely to written conditions on the consent. The concerns expressed were based on the perceived implication that any current restrictions on location and premise type in council policies would not be able to be sustained. The sector generally accepts that this is not the intent of the amendment.

21. There may be a need for Government to clarify this provision with councils who hold a genuine concern for the validity of their policies and their ability to contribute to fulfilling the purposes of the Gambling Act 2003.
22. *Local Government New Zealand* supports Subsection (5). This amendment will ensure that if a venue licence is not issued by the Department within six months of the venue consent, then the territorial authority venue consent expires. This means that the number of machines provided for under that consent will not be “counted” in the total number of machines for the district (which is significant if there is any form of cap in the council policy). This will effectively prevent the stockpiling of venue consents, and is something that many territorial authorities have been asking for.

#### OTHER AMENDMENTS CONTAINED WITHIN THE BILL

23. There are a range of other minor amendments to the Act which amend sections of interest to territorial authorities, but these are of little impact for territorial authorities. For example all references to “societies” will be amended to now refer to “corporate societies”. We do not consider these changes of any significance to the sector and so have not commented on these clauses of the Bill.

#### GAMBLING ACT 2003 - WIDER ISSUES FOR COUNCIL

24. In anticipation of this Bill, *Local Government New Zealand* canvassed territorial authorities about issues pertaining to the Act, or any amendments they would like to see. This consultation has highlighted a number of issues of concern to councils and suggestions for amendments.

25. Concerns raised included:

- the frequency (and cost) of the policy review cycle
- council’s inability to recover the costs of policy development and review
- a lack of robust research, data, and assistance from central government to support councils to develop and implement their policies
- monitoring and enforcement of license provisions.

#### *Frequency of review period for Council policies*

26. There was general support for a **longer review period** for Council Class 4 policies (e.g. 5 or 6 years) rather than the current three year cycle. Councils generally felt that, now the legislation has been in place for 4 years, it would be appropriate to extend the timeframe for policy reviews to 5 or 6 years. This would lower the cost to ratepayers, decrease pressure on council resources, and be more aligned with other relevant review processes (such as Community Outcomes Processes and District Plans) which have longer review periods.

*Cost recovery: Who pays for unfunded mandates?*

27. The Gambling Act 2003 assigned roles and powers to councils but did not provide them with the resources, or ability to charge for, the implementation of this range of roles and powers.
28. Whilst councils can charge fees for consents, the Act does not provide for the recovery of the costs of developing, consulting on, and reviewing policy including the assessment of social impacts. Legal advice to *Local Government New Zealand* suggests that the Act does not provide for local authorities to incorporate policy development and review charges in their consent application fees. Essentially, councils (and therefore ratepayers) are funding the costs of developing, consulting on and reviewing their Class 4 venue policies (usually from the general rate).
29. Government already collects substantial funding from the gambling sector in the form of the problem gambling levy. *Local Government New Zealand* has made previous submissions to Government requesting **that a portion of the levy (either through redistribution or increase) be made available for distribution to local authorities to assist them to effectively implement their legislative obligations**, consider social impacts of gambling in their communities, and thereby contribute to preventing and minimising gambling related harm.
30. Although the government did not provide local authorities with a specific role in minimising gambling harm under the Act, we submit that local authority policy development and social impact assessment is significant in contributing to the objective of preventing and minimising gambling related harm. To date, Government has declined to make the levy, or alternative funding, available to councils to support this work.

*Research and information*

31. Councils have expressed that accessing appropriate information (robust and quantitative data) to undertake impact assessments and develop their policies has been a key challenge for them. Application of a portion of the levy could support councils in gathering and analysing relevant information to support policy development. We suggest that if central government wishes to see robust Class 4 gaming policies that are based on good information and social impacts assessment, then it should support the application of a portion of the levy to enable this. While the newly introduced Electronic Monitoring System is likely to improve this situation, it will be important to monitor the nature and level of information available to councils to support them develop their policies.

*Monitoring and enforcement of license provisions*

32. Some councils highlighted the importance of regular and robust monitoring and enforcement of license conditions by the Department of Internal Affairs. They noted the importance of the Department being adequately resourced to fulfill its functions under the Act. Some are concerned that adequate monitoring and enforcement of license provisions is not always occurring, and that as a result, there are detrimental impacts on community wellbeing.

**CONCLUSION**

33. *Local Government New Zealand* thanks the Committee for the opportunity to present on the Gambling Amendment Bill. While generally of a technical nature and supported by the local government sector, there is some concern about the implications of the amendment to s100(1)(b)(i).
34. *Local Government New Zealand* also wishes to bring to the Committee's attention additional issues of concern to the sector along with *Local Government New Zealand's* proposed responses to these. Key issues are the frequency and cost of policy review, and the limited information to support policy development. Monitoring and enforcement of license conditions is also a concern in some areas.