

Submission to the Government Administration Committee

In the matter of the *Gambling
Amendment Bill (No 3)*

Auckland Council, January 2015



**Auckland
Council**

Te Kaunihera o Tāmaki Makaurau



Mihimihi

Whakarongo ake au ki te tangi a te Manu Tui – Tui – Tui.

Tuia I runga, tuia I raro.

Tuia I waho, tuia I roto.

Tuia te muka tangata I takia mai I Hawaiki Nui, I Hawaiki Roa, I Hawaiki Pāmamao.

Te here ki Wairua, ki te whei Ao, ki te Ao Mārama.

Tihei Mauri Ora.

E ngā Mana, e ngā Reo, e ngā Waka o te Motu, tēna koutou, tēna koutou, tēna koutou katoa.

Ko te reo mihi tenei o te Kaunihera o Tāmaki Makaurau, me rātou ngā Iwi katoa, Mana Whenua, Maataa Waka, me Tauīwi mā, e noho atu nei I raru I te maru o ngā maunga tapu o Tāmaki Makaurau, Tamaki hereherenga waka.

E mihi ana hoki kia rātou te hunga kua wheturangitia, kua haere nei I runga I te huarahi I takahia atu nei e te tini e te mano – haere koutou, haere, haere haere.

Takoto mai I roto I ngā pari karauna ki te taha o ngā Mātua Tupuna.

Koutou rā te hunga Wairua – koutou kia koutou.

Tātou te hunga ora – tātou kia tatou.

Ko te wawata – kia piki te ora, kia piki te kaha kia tatou katoa – mauri ora.

Ko te kōrero nei ...“te pai me te whai rawa o Tamaki” ehara no naiane ano – mai rano te noho o tenei kōrero ki tenei rohe. Engari he ao hurihuri tenei, he ao e ākina ana e ngā hau e whā, mai I te raki ki te tonga, mai I te rāwhiti, ki te tuaaru. He maha ngā tikanga rerekē, o tena, o tena, me te maha hoki o ngā kaupapa. Ko te kaupapa nei o ngā mahi petipeti, me āta whakaarotia, me āta wānangatia kia puta ai ngā whakaaro me nga ritenga e haere kotahi ai tatou I runga I te huarahi o te tika, o te pono, me te aroha. He taonga tukuiho enei nā ngā matua Tupuna, no reira kōkiritia, āwhinatia he painga mo tatou me ngā uri kei te heke mai.

“Mā te mahi ngātahi – e taea ai ngā taumata.”

No reira noho ora mai, I raro I nga manaakitanga o te Runga Rawa.

Mauri ora.

I hear the call of the Tui bird.

Calling from above – calling from below.

Calling from the outside – calling from the inside.

Calling to the many generations of descendants from the Big Hawaiki (Hawaiki nui), the Long Hawaiki (Hawaiki roa), to the everlasting Hawaiki (Hawaiki pamamao). Weaving through the many strands of the spiritual world to the living world – the world of knowledge and understanding.

The breath of life.

To all Authorities, Cultures languages, Waka, and all communities of the Region, greetings to you all.

Greetings from the Auckland Council, from Mana Whenua and Maata Waka (other tribal people living in Tamaki Makaurau). Greetings from the People of Auckland, sheltering within the Ancestral Maunga of Tamaki Makaurau (Tamaki desired by many), Tamaki Herenga Waka (Tamaki the mooring place of many waka).

We pay our respect to the many departed loved ones – on their eternal journey, traversed by many before – farewell, farewell. Rest in Peace.

Let the spirit world to the spirit world – the living world to the living world.

Good life and many blessings.

Words that are often stated, “Tamaki the land of abundance,” are not just words of today – they have been used to describe this place over many generations. We live in a very changing world, lashed by the North, South East and West winds. Many people, with many different customs, language and different aspects of life have arrived on these shores.

With regards to the matter of problem gambling, we need careful discussion and consideration, and to work collaboratively, to seek solutions. Fruitful discussion based on the principles of faith (whakaponu), hope (tumanako), and aroha; principles passed down through generations by our Ancestors. We need to engage in these principles, seek more understanding not only for our benefit but for the benefit of our future generations.

“We can achieve more by working together.”

Sincere blessing to all.

“The breath of life”

Introduction

1. Auckland Council (the Council) thanks the Government Administration Committee for the opportunity to make a submission on the Gambling Amendment Bill (No 3) (the Bill). This submission has been prepared by officers, and was developed in conjunction with a working party comprised of councillors, members from several local boards, and a member of the Independent Maori Statutory Board.
2. This submission represents the views of Auckland Council, including the Governing Body and local boards.
3. The Auckland Plan, Auckland's 30 year strategy and vision, identifies addressing gambling-related harm as a key way to improve health and wellbeing in the region. To date, the Council has submitted two pieces of formal feedback to the Government on proposed gambling regulations, both of which have informed this submission.
4. In July 2012, the Council submitted to the Commerce Committee in the matter of the *Gambling (Gambling Harm Reduction) Amendment Bill*. In October 2013, the Council submitted feedback in response to the Department of Internal Affairs' September 2013 *Public Consultation on proposals for Class 4 gambling*; proposals and consultation which have, in part, informed this Bill.
5. The Council would welcome the opportunity to make a supplementary oral submission to the Government Administration Committee. Please contact Rebecca Turner, Policy Analyst, on 09 301 0101, or by email: rebecca.turner@aucklandcouncil.govt.nz.

Executive summary

6. The Council supports the Bill overall. However, the Council requests amendments to the following two topics:
 - Transparency of grant-making by societies: clauses 11, 12 and 18
 - Simplifying compliance with the venue payments system: clauses 5, 6, 8, 10, 13, 14 and 18.
7. The Council does not support the proposal to reduce costs associated with licensing by lengthening the timeframe for renewal (clauses 7 and 9).
8. The Council gives its full support to the following:
 - Reducing conflicts of interest: clauses 4 and 16
 - Improving transparency of management company operations: clauses 4 and 15
 - Simplifying compliance with publication requirements: clause 12
 - Ensuring the Act's appeals process is efficient: clause 17

Auckland Council's position on the Bill's proposals

Transparency of grant-making by societies: clauses 11, 12 and 18

9. Auckland Council supports the amendments to the publication requirements outlined in the Bill, though the Council does request an amendment (or alternatively, development of subsequent regulations) requiring that the Department of Internal Affairs publish compiled information from all corporate societies.

Discussion

10. The Council supports clause 11 of the Bill, which specifies a greater level of detail for corporate societies' reporting on grant distribution.
11. Requirements to publish full details relating to individual grant recipients, including amounts applied for compared with amounts granted; reasons for any declinations; and committee members' interests in any applications are particularly welcome. The Council considers that these requirements will allow for a grants process that can be scrutinised to a higher level of detail.
12. The Council notes that in its feedback on the 2013 Department of Internal Affairs discussion document on Class 4 gambling, it proposed that the Department of Internal Affairs should collect and compile grants information. This would allow comparison of different corporate societies' financial information and aid territorial authorities in fulfilling statutory obligations to consider social impacts of gambling. The Bill does not currently include any such requirements of the Department.
13. The Council reiterates its request that this be included in the final Act, or any subsequent regulations, noting that 4B of clause 11 requires corporate societies to provide electronic versions of every statement published to the Secretary, already providing a mechanism for the collection of the data by the Department.

Simplifying compliance with the venue payments system: clauses 5, 6, 8, 10, 13, 14 and 18

14. Auckland Council is not opposed to simplifying venue payments in principle. However, the Council is concerned that options presented to date for simpler venue payments may incentivise venue operators to maximise gaming machine proceeds, which is contradictory to the Act's purpose to minimise harm from gambling, and problem gambling in particular. The Council requests an amendment to clarify that any new payment system must not incentivise venue operators to maximise gaming machine proceeds.

Discussion

15. The Council is not opposed in principle to the intent of the Bill's amendments, which allow the development of regulations to simplify venue payments, including the possibility of commission-based payments (clauses 5, 6, 8, 10, 13, 14 and 18). The

Council agrees that maximising returns to the community is of high importance, but the Council gives primacy to the reduction of gambling-related harm. Thus, the Council considers that any new venue payments system must not incentivise an ultimate increase in gambling-related harm.

16. The 2013 Department of Internal Affairs discussion document on Class 4 gambling presented three alternatives to the existing payment system. The Department recognised that these alternatives all have the potential to incentivise operators to increase gaming machine proceeds, though to varying degrees, and with varying ability for regulators to mitigate this incentivisation. The Council submitted that it would not support a commission-based payment if this provided structural incentives for venue operators or corporate societies to increase gaming machine proceeds, either by encouraging longer operating hours or more intensive use of gaming machines, both of which have been linked to problem gambling.
17. The Council notes that the changes in the Bill will enable any of the three alternative options presented in the discussion document, including a commission-based payment, and that Cabinet has approved the development of a commission-based payment system (contingent upon the passage of the regulation-making power in this Bill). The Council reiterates its concern that payment systems must not incentivise increased gaming machine proceeds, and by extension, an increased incidence of problem gambling.
18. The Council requests that clause 18 be amended to explicitly state that any venue payment system developed must not incentivise increased gaming machine proceeds.

Reducing costs associated with licensing: clauses 7 and 9

19. Auckland Council does not support the Bill's amendments to allow operators' licences to remain current for twice as long as the current Act allows.

Discussion

20. The Council does not support clauses 7 and 9 of the Bill, which allow operators' licences to remain current for up to three years, instead of the current Act's 18 months.
21. The Council notes that this issue was not referenced in the 2013 Department of Internal Affairs discussion document on Class 4 gambling, though the explanatory note states that longer licences could be used to reward highly compliant operators and would help their reduce operating costs.
22. The Council considers that this amendment represents a significant departure from the current legislation, and is concerned that the points made in the explanatory note prefacing the Bill may not represent an adequate level of evaluation before including the proposal in any new legislation.
23. The Council considers that *all* operators must be compliant with the law, and if any operator is not compliant it is expected that they would not retain their licence.

24. Neither clause 7 nor 9 make any reference to how the Secretary might apply this discretion. The current drafting simply states that the licence expiration must not be more than three years after the commencement date. The Council considers that this three year period may become the norm, which could adversely affect the quality of corporate societies' operations as the current 18 month renewals act as an effective check and balance.
25. The Council considers that the intent of reducing costs for operators to increase net profits is commendable, however the Council does not agree that fewer checks on corporate societies' operations is the appropriate way to achieve this.
26. The Council recommends that the Department explore other means to reduce the cost of licencing to corporate societies, for example, if it considers some operators to be more compliant than others and wants to incentivise this behaviour it could consider offering lower fees for licence renewals.

Reducing conflicts of interest: clauses 4 and 16

27. Auckland Council fully supports the broadening and strengthening of the definition of "key person" in clause 4 of the Bill. Specifically, the Council supports the identification of management services providers as key persons in relation to class 4 operator licences. It also supports the addition of both those who may be, or may be perceived to be, able to exert influence on venue operators and those who service gambling equipment, whether formally contracted to or not, to the definition of key person in relation to class 4 venues licences.
28. The Council fully supports the amendment in clause 16 which makes the seeking or receiving of any benefits by key persons illegal, as compared with the existing Act, where this is disallowed only if the receipt of the benefits has a condition attached. The Council also fully supports the introduction of legislation disallowing receipt of benefits by key persons on applications of grants that could be reasonably perceived as influencing decisions made.

Improving transparency of management company operations: clauses 4 and 15

29. Auckland Council fully supports the addition of management services providers to the "key person" definition in clause 4 of the Bill, and the granting of investigation and audit powers to the Secretary for Internal Affairs in clause 15.

Simplifying compliance with publication requirements: clause 12

30. Auckland Council fully supports the simplification of publication requirements and allowance of electronic formats for publishing in clause 12 of the Bill, and has previously indicated its support for this legislative change to the Department of Internal Affairs.

Ensuring the Act's appeals process is efficient: clause 17

31. Auckland Council fully supports clause 17 of the Bill, which closes the current “loophole” allowing corporate societies to delay enforcement action or cancellation of licences. The Council agrees that limiting opportunities for corporate societies to circumvent the Secretary’s decisions regarding refusal, cancellation, suspension or amendment of a licence would assist in achieving the purpose of the Act.

Clause by clause response

32. The following table summarises the Council’s position on each clause in the Bill, and gives any comments on the specific text or drafting.

Clause	The Council’s position	Comments
4	Fully support	
5	Not opposed in principle	<i>See comments at clause 18</i>
6	Not opposed in principle	<i>See comments at clause 18</i>
7	Does not support	Considers that the three year period may become the norm. Current 18 month renewals are an effective check and balance.
8	Not opposed in principle	<i>See comments at clause 18</i>
9	Does not support	Considers that the three year period may become the norm. Current 18 month renewals are an effective check and balance.
10	Not opposed in principle	<i>See comments at clause 18</i>
11	Requests amendment	Considers that the Department of Internal Affairs should collect and compile grants information to aid territorial authorities in fulfilling statutory obligations to consider social impacts of gambling.
12	Fully support	
13	Not opposed in principle	<i>See comments at clause 18</i>
14	Not opposed in principle	<i>See comments at clause 18</i>
15	Fully support	
16	Fully support	
17	Fully support	
18	Requests amendment	Explicate that any venue payment system developed must not incentivise increased gaming machine proceeds.