


43. **DEFERRED APPLICATION BY CHRISTCHURCH WORKING MEN'S CLUB FOR TERRITORIAL AUTHORITY CONSENT UNDER GAMBLING ACT 2003**



General Manager responsible:	General Manager Regulation and Democracy Services DDI 941-8549
Officer responsible:	Inspection and Enforcement Manager
Author:	Klaus Prusas, Team Leader- Environmental Effects, IEU

PURPOSE OF REPORT

1. The purpose of this report to provide the further legal opinion sought by the Council at its 27 September 2007 meeting as to whether it would be possible for the Council to use section 80 of the Local Government Act 2002 to approve the transfer of gaming machines from the former Christchurch Working Men's Club (CWMC) premises at Oxford Terrace to its new premises at 818 Colombo Street.

EXECUTIVE SUMMARY

2. The Council has received three reports on this matter, namely 8 June 2006, 20 September 2007, and 27 September 2007. The 27 September 2007 report was an update provided by the Chairperson of the Gambling Subcommittee from its meeting on 26 September 2007.
3. The 20 September 2007 report attached to this report (Attachment 1) provides the historical background to that date.
4. The further legal opinion requested at the 27 September 2007 meeting has been received. The opinion discusses several options and in conclusion it suggests that the Council could use section 80 of the Local Government Act 2002 to approve the transfer of the CWMC's gaming machines from their premises at Oxford Terrace to their 818 Colombo Street premises, provided the course of action outlined in the opinion is followed.
5. The legal opinion is attached (Attachment 2), and sections 24 to 31 are particularly relevant.
6. The author of the legal opinion states *"I have reached this conclusion because I do not believe that even in 2006, nor at any other time, the Council has ever specifically considered and rejected section 96 circumstances/applications from the 03 Act in relation to its Class 4 venue policy"*.
7. The Council appears to have two options in this matter:
 - decline the deferred application; or
 - to proceed as outlined in the legal opinion

FINANCIAL IMPLICATIONS

8. There are no financial implications for the Council if it declines the application but if it chooses the option of further deferring the application to amend and consult on the policy there will be financial expenditure in carrying out the consultation. Declining the application, and thereby preventing the CWMC gaming machines from operating, has a financial implication for the community in that there will be less gaming machine funds to distribute.
9. There may be financial implications in declining the application for the CWMC because in February last year their solicitor advised that *"there is a great deal of urgency associated with these matters, as our clients are heavily financially reliant on the operation of these machines for their cashflow (through site rental)"*. However, the CWMC is still operating 18 months after that letter so the financial implications may not be as great as first anticipated by them.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

10. There may be room within the Council budgets for special consultative procedures which may not be known before the budget is prepared, but this specific SCP would not have been contemplated at all, because the Gambling Policy review was only completed last year and another is not required by the Act for a further three years.

LEGAL CONSIDERATIONS

11. See Buddle Findlay legal opinion dated 3 October 2007.

Have you considered the legal implications of the issue under consideration?

12. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

13. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

14. Declining the application will align with some of the principles in the Council's Strong Communities strategy, but possibly not others, particularly if declining the application caused this historic club to go out of existence (it first opened in 1880 and is one of the oldest clubs in New Zealand). In the report to Council in June last year information was given to the Council that there would be critical financial implications for the CWMC if the TA consent was not granted. However, the CWMC signed its lease for the new premises, moved, and is still currently in business despite the TA consent not being granted last year.

CONSULTATION FULFILMENT

15. The Council already has an idea of community views generally in relation to gambling, although not in relation to this specific matter, as a result of the submissions on the Gambling Policy last year. The vast majority of submissions were strongly opposed to any liberalisation of the Council's former policy. If the Council opts to defer the application then further consultation will be carried out.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Decline the application; or
- (b) Proceed as outlined in the Buddle Findlay legal opinion dated 3 October 2007.