REGULATORY AND CONSENTS COMMITTEE
SUPPLEMENTARY AGENDA

WEDNESDAY 11 FEBRUARY 2004
AT 1.30PM

PART A - MATTERS REQUIRING A COUNCIL DECISION

9. COUNCIL RESPONSE TO DEPARTMENT OF INTERNAL AFFAIRS CONSULTATION PAPER ON POSSIBLE GAMING REGULATIONS

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The purpose of this report is to advise the Committee of a Department of Internal Affairs consultation paper on possible gaming regulations, including prohibited prizes, harm minimization and gaming machine profit distribution and accountability.

Attached to the report is a proposed Council submission on the discussion document which will be referred to the 26 February 2004 Council meeting.

INTRODUCTION

The Gambling Act became law on 18 September 2003. The purpose of the Act is to:

(a) Control the growth of gambling; and

(b) Prevent and minimise the harm caused by gambling; and

(c) Authorise some gambling and prohibit the rest; and

(d) Facilitate responsible gambling; and

(e) Ensure the integrity and fairness of games; and

(f) Limit opportunities for crime and dishonesty associated with gambling; and

(g) Ensure that money from gambling benefits the community; and

(h) Facilitate community involvement in decisions about the provision of gambling.

The Act includes key measures to help achieve these objectives, including the requirement on Councils to introduce a policy on class 4 venues by the 18 March 2004.

However, the Act left a lot of the detail to secondary legislation, for example regulations, game rules, gaming machine standards, etc.

The Department of Internal Affairs has recently released a consultation paper seeking feedback regarding these secondary regulations. The paper includes:

- Prohibited prizes (property that should not be offered as prizes for gambling),
- How to prevent and limit the harm that can result from gambling,
- Distributing or applying the profits of the gaming machines that are in pubs and clubs, and
- The accountability of gaming machine operators.

Submissions on the consultation document close 27 February 2004. A draft submission has been prepared and is attached to this report for consideration.

SUMMARY OF PROPOSED REGULATIONS

The Department of Internal Affairs has made suggestions regarding what the regulations might say. These are summarized below.

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Prohibited Prizes

The consultation document proposes regulations that disallow offer the following things as prizes in any form of gambling:

- Firearms, airguns and ammunition,
- Liquor,
- Tobacco products,
- Second-hand goods (except items that are of classic, historical or cultural significance),
- Artefacts,
- Businesses, or any land not zoned residential,
- Vouchers or entitlements to any of the things listed above.

Harm Minimisation

The consultation document suggests that regulations:

(a) Retain the present pub and club gaming machine stake limits ($2.50) and prize limits ($500 for a single machine and $1000 for a linked machine jackpot).

(b) Introduce less predictable casino, pub and club gaming machine jackpots, and require notices advising players that jackpots aren't struck at any particular level.

(c) Forbid casinos, pubs and clubs advertising gaming machine jackpot totals except in the venue (and even then, not in a way that is visible from the street).

(d) Require casinos, pub and club gaming machine operators and the NZ Racing Board to train staff who supervise gambling, in problem gambling awareness.

(e) Require class 3 gambling operators (eg operators of large raffles and large housie sessions), casinos, and pub and club gaming machine operators to provide information on odds (eg for gaming machines, by way of a "second screen").

(f) Introduce gaming machine design features providing information on game characteristics, individual player losses and duration of play.

(g) Require gambling operators to make information that they collect on a player, available to that player.

(h) Continue to require casinos, pub and club gaming machine operators and the NZ Racing Board to provide brochures and notices informing players about the hazards of gambling, encouraging players not to spend more than they can afford and setting out information on assistance for gambling problems.

(i) Set a minimum gaming machine game duration of 3.5 seconds.

(j) Specify certain types of venues as unsuitable for non-casino gaming machines:

- Any venue at which the primary activity is anything other than on-site entertainment, recreation or leisure focused on people 18 years and over (this means, for example, that the following types would be unsuitable: any dairy, supermarket or other venue at which the primary activity is the creation, distribution, sale or hire of goods; any fast food outlet; any office; any private residence; any central or local government building; any educational institution; any place of worship; any circus, fair, amusement parlour, amusement arcade, amusement park or theme park).
- Any venue that is not a permanent structure or that is not easily electronically monitored in real time (this means, for example, that the following types of venue, if they are considered to be venues, would be unsuitable: any vehicle, caravan, vessel or aircraft; any trailer or other conveyance; any tent, marquee, or other non-permanent structure).
- Any footpath whether or not it is under cover, or any concourse area whether or not it is enclosed (for example, concourse areas in airports, railway stations, bus depots or shopping malls).

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- Any venue (other than a Board venue or racecourse, as defined in section 5(1) of the Racing Act 2003) at which the primary activity is gambling.
- Any internet-café or cyber-café, or any venue at which the primary activity is electronic games.
- Any library, art gallery, museum, theatre, or cinema any massage parlour (as defined in the Massage Parlours Act 1978) or brothel (as defined in the Prostitution Reform Act 2003).
- Any venue to which gambling inspectors may not have immediate access [this means, for example, that the following types of venue would be unsuitable: a defence area (as defined in the Defence Act 1990); any secure facility; any fortified clubrooms].
- Any venue or class of venue similar to those listed above.

(k) Ban Automatic Teller Machines (but not EFTPOS terminals) in casinos, pub and club gaming machine venues and NZ Racing Board venues (ie TABs).

(l) Create infringement offences for breaching some harm minimisation regulations.

Gaming Machine Profit Distribution And Accountability

The consultation document suggests that the regulations be stricter for groups that distribute gaming machine proceeds to the community and for venues whose net proceeds are distributed to the community, than for groups that apply the proceeds to their own purposes. It also proposes the regulations say that:

(a) Every group must:

- Return at least 37.12% of GST exclusive revenue (defined to include player losses, proceeds from the sale of fittings, chattels and equipment, and interest or other investment return on those amounts) to authorized purposes.
- Maintain full and complete records on a day-to day basis that enable every transaction to be readily identified and to be verified by reference to source documents.
- Retain all records for seven years.
- Put the detail of every contract or agreement with a third party in writing.
- Submit audited annual reports in a specified format.
- Bank gaming machine proceeds within 2 working days.
- Ensure that only suitably qualified and authorised people work on the machines, have internal access to gambling equipment, or have access to sensitive components.

(b) Groups that distribute gaming machine proceeds to the community and a group that has any venues most of the proceeds of which are distributed to the community must:

- If average weekly player losses for the group or the venues, as the case may be, are lower than $200,000, distribute all net proceeds from each 6 month period by the end of the following 6 month period.
- If average weekly player losses are lower than $500,000, distribute all net proceeds from each quarter by the end of the following quarter.
- If average weekly player losses are $500,000 or more, distribute all net proceeds from each month by the end of the following month.
- Include daytime contact telephone numbers on every advertisement about the availability of funds.
- Seek applications and information from applicants in a specified format and consider any application that includes the relevant information.
- Set up distribution committees complying with specified criteria.
- Establish formal grant cycles, based on a group's financial year, that are at least 6 monthly if average weekly player losses are lower than $200,000; at least quarterly if average weekly player losses are lower than $500,000; at least monthly if average weekly player losses are $500,000 or more.
- Maintain websites setting out all the information referred to in section 110(2), (3) and (4) of the Act, and on that website update the information referred to in section 110(4)(a) and (b) of the Act at least six monthly.

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(c) Groups that apply gaming machine proceeds to their own purposes must:

- Establish formal distribution committees to decide how to apply the proceeds.
- Maintain formal records relating to the decisions.
- Apply the proceeds to authorised purposes within 12 months of earning them.
- In the case of a club operating in its own clubrooms, display a notice, updated at least 6 monthly, itemising how it has applied the proceeds from the gaming machines.
- In the case of a group with average weekly player losses that are $200,000 or higher, maintain a website, updated at least 6 monthly, itemising how it has applied the proceeds from the gaming machines.

(d) Some profit distribution and operator accountability regulations are infringement offences.

DISCUSSION

Due to the consultation timeframe and the Council meetings schedule the Council has had limited time to review the paper and prepare a draft submission. It is therefore suggested the Council submission focus primarily on (1) harm minimisation and (2) distribution of the profits of the gaming machines.

1. **Harm Minimisation**

This is an area of particularly concern for the Council. The research and consultation for the Council's Gaming Venue Policy highlighted public concern regarding problem gambling and the need for harm minimisation initiatives.

Problem gambling is a major emerging public health problem in the city and New Zealand. Problem gambling is a pattern of gambling behaviour that disrupts and damages a person's life, their friendships, family relationships and job interests. Problem gamblers suffer from increased rates of bankruptcy, arrest, imprisonment, unemployment, divorce, and poor physical health and mental health. There is also evidence to suggest that problem gamblers have higher rates of suicide.

Research indicates that:

- At least 1.3% of adults (36,800 adults) had gambling problems of varying severity when the last major survey was conducted in 1999.[1]
- Even at the time, this percentage estimate was likely to be conservative.
- The growth in gambling suggests that the figure might have increased since 1999.
- Even if the numbers are small, the effects can be both devastating and irreversible, and extend well beyond gamblers themselves.
- The number of people seeking help has grown significantly in the last 5 years.
- A key risk factor associated with problem gambling is regular participation in any continuous form of gambling (especially gaming machines).
- Certain population groups have higher problem gambling prevalence rates. Youth as a population group are also becoming more visible in problem gambling studies.[2]

There are different approaches to harm minimization:

1. *Supply side interventions* - these include regulations around the supply of gaming machines, casino licensing and modifying gambling environments.

2. *Demand reduction interventions* - these are public health approaches aim to reduce the demand for gambling in communities. Raising public awareness around gambling and building resilience in communities are examples of demand reduction interventions.

[1] M Abbott and R Volberg, Taking the Pulse on Gambling and Problem Gambling in New Zealand: A Report on Phase One of the 1999 National Prevalence Survey, Department of Internal Affairs, 2000. G Paton-Simpson, M Gruys, and J Hannifin, Problem Gambling Counselling in New Zealand - 2002 National Statistics, Problem Gambling Committee, 2003.

[2] F Rossen, *Youth Gambling: A Critical Review of the Public Health Literature*, Centre for Gambling Studies, University of Auckland, 2002

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3. *Problem limitation interventions* - Problem limitation interventions move across the continuum towards individual approaches for those affected by gambling harm, for example services for problem gamblers and their families will be available in communities.

A combination of all these approaches is important.

Some of the harm prevention measures in the Act are already in force. These include:

- A prohibition on any new casinos.
- A prohibition on the 6 existing casinos expanding their gambling activities.
- Lower limits on gaming machines at venues licensed after 17 October 2001 (a maximum of 9 machines).
- A requirement to obtain territorial authority consent if venues licensed after 17 October 2001 are to carry on, and
- A requirement to obtain territorial authority consent for increases in the number of machines permitted at any venue.

Some of the Act's other harm prevention provisions are not yet in force. These include:

- Age limits for the higher-risk forms of gambling - 18 for pub and club gaming machines (sections 301 - 306).
- Strict licensing criteria for pub and club gaming machines, emphasising harm minimisation (sections 50, 52, 65 and 67).
- Powers to exclude problem gamblers from casinos, and pub and club gaming machine venues (sections 308 - 311).
- An integrated problem gambling strategy focused on public health - the Ministry of Health will perform this role (section 317).
- Specific prohibitions on so-called "gaming machine shops" (section 67(1)(k)) and the subdivision of gaming machine venues (section 67(1)(l)).
- A prohibition on gambling operators providing credit for gambling (section 15).
- A prohibition on the advertising of overseas-based gambling (section 16).

The Act also includes powers to make regulations and gaming machine standards designed to prevent and reduce gambling-related harm. It is these measures that the consultation document focuses on.

The consultation document proposes the measures outlined below:

(a) **Maximum bet (non-casino gaming machines)**

The consultation document suggests retaining the present pub and club gaming machine stake limits ($2.50)

New Zealand's $2.50 maximum bet on pub and club gaming machines may limit expenditure (player losses), and help prevent gambling problems.[3] While New Zealand's per capita gaming machine expenditure has grown steadily in recent years, it is still lower than most Australian states. New Zealand's problem gambling prevalence rates also appear to be lower than those of most Australian states.

There is evidence that gambling has a negative social and economic impact on low-income communities, including financial problems. Any increase in the bet limit may exacerbate these effects.

The draft submission suggests that Council supports the retention of the present $2.50 bet limit for non-casino gambling machines.

[3] The Australian Productivity Commission found a link between per capita non-lottery expenditure and levels of problem gambling. It noted that Australian states with the highest non-lottery expenditure (eg NSW) also had high problem gambling rates. States with low expenditure (eg Tasmania) had lower problem gambling prevalence rates. (Productivity Commission, *Australia's Gambling Industries*, AusInfo Report No 10, 1999).

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(b) **Maximum prizes (non-casino gambling machines)** (section 6.1)

The consultation document suggests retaining the present prize limits ($500 for a single machine and $1000 for a linked machine jackpot)

The current maximum prize for a single play on a stand-alone non-casino gaming machine is $500. For a jackpot involving linked non-casino machines, it is $1,000. Current limits are considerably below the prize limits in all Australian jurisdictions that allow non-casino machines (three of which have no limit).

The document identifies that there is some evidence from detailed interviews and surveys to suggest that reducing prize limits might reduce problem gambling.[4] A Department of Internal Affairs survey in 2000 found that most non-casino gaming machine players (57%) played to win money.[5]

Anecdotal evidence suggests that Jackpot prizes are a substantial influence on the risk of problem gambling behaviour.

The draft submission suggests that Council submits that the maximum jackpot should either be reduced to $500 or prohibited altogether.

(c) **Gaming machine jackpot design (casino and non-casino gaming machines)** (Section 6.1)

The consultation document proposes that it become mandatory for any gaming machine jackpots to strike randomly. It suggests that this could be combined with a) notices stating that jackpots are random (ie are not struck a particular level), b) a requirement that jackpot totals be invisible from the street, and c) a prohibition on other forms of jackpot advertising, except in the venue itself.

Currently some jackpots are more likely to strike once the accumulated amount nears the prize limit. Players tend to bet more (or even to bet more than they can afford) as the jackpot prize limit approaches. In some cases, groups of people "chase" jackpots from venue to venue. This could be avoided by requiring that jackpots strike randomly or prohibiting jackpots altogether in non-casino venues.

Feedback during Council's consultation of the policy suggests that advertising jackpots has an adverse effect on problem gamblers.

The draft submission suggests that Council:

- Supports that jackpots should either be required to strike randomly or be prohibited altogether in non-casino venues
- Submits that there are regulations prohibiting casinos and non-casino venues from advertising their jackpot totals.

(d) **Exclusion of problem gamblers and problem gambling awareness training** (section 6.2)

The consultation document proposes that casinos, pub and club gaming machine operators and the NZ Racing Board be required to train staff who supervise gambling, in problem gambling awareness. The document suggests that such training be a requirement for casino staff who are in direct contact with gamblers, and for enough pub and club gaming machine venue managers and other staff to ensure that there is always a trained person at the venue.

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[4] M Abbott, Problem and Non-Problem Gamblers in New Zealand: A Report on Phase Two of the 1999 National Prevalence Survey, Department of Internal Affairs, 2001.

[5] B Amey, People's Participation in and Attitudes to Gaming, 1985-2000, Department of Internal Affairs,2001.

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Sections 316 of the Gambling Act 2003 and 65H of the Racing Act 2003 set out powers to make regulations on the exclusion of problem gamblers from gambling venues. The Discussion document does **not** propose making regulations under these sections at this stage. Sections 313 of the Gambling Act and 65E of the Racing Act say that regulations may require gambling operators to provide problem gambling awareness training for employees involved in supervising gambling. The Discussion document proposes using these provisions. Section 308 of the Gambling Act requires each holder of a non-casino gaming machine venue licence or a casino operator's licence to develop a policy for identifying problem gamblers. Section 309 of the Gambling Act sets out a procedure that a class 4 venue manager or a holder of a casino operator's licence must follow if a problem gambler is identified. He or she must, after identifying a problem gambler, approach the person concerned; and offer information and advice to the person about problem gambling.

Given the difficulty in identifying problem gamblers, the consultation document suggests that venues will use advice and exclusion procedures mainly when problem gamblers identify themselves. However, it also states that there might be times when venue staff have reason to believe that a player is experiencing difficulties, and if so, they should approach the person.

The consultation document suggests that an approach to ensure training programmes are of an adequate quality and (in the case of pubs) a reasonable cost could be for the regulations to specify minimum standards or content, and then use the various tools provided by the Gambling Act to ensure compliance. Another suggested approach is to introduce more formal accreditation arrangements for training programmes.

Some other Councils' Draft Gambling Venue Policies includes a requirement that applicants be able to show that adequate policies are in place to ensure gambling harm minimisation, including a staff training programme (eg Rotorua, Banks Peninsula). The Christchurch City Council draft policy does not at this stage include such a requirement as the Council believed that such a requirements was beyond the Council's scope outlined the Act.

The draft submission suggests that Council supports the approach of requiring problem gambling awareness training for both casino and non-casino employees. Such training should be funded from existing or new levies on gambling machine operators.

Page 17 of the consultation document notes that a venue manager or casino licence holder has the right to identify a person they believe is a problem gambler and ban them from the gambling area for up to two years.

The draft submission suggest that Council endorses this approach provided it is sufficiently resourced to ensure effective compliance, including more rigorous monitoring of individual venues by officers of the Department of Internal Affairs. The aim of banning problem gamblers should be to encourage the use of counselling services. The draft submission therefore suggests that Council also submits that banned gamblers should be required to provide proof of counselling before being permitted to return to the gambling venue.

(e) **Information on odds and game characteristics** (Section 6.3)

The consultation documents proposes that:

- class 3 gambling operators (eg operators of large raffles and large housie sessions), casinos, and pub and club gaming machine operators are required to provide information on odds (eg for gaming machines, by way of a "second screen" that regularly interrupt game play to inform players about the odds).
- gaming machine design features are introduced providing information on game characteristics, individual player losses and duration of play.
- gambling operators are required to make information that they collect on a player available to that player.

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The Act includes powers to require class 3 gambling operators (eg operators of very large raffles or housie), pub and club gaming machine operators and casino operators to inform players of the odds. It also includes powers to specify how that information is to be displayed or provided.

The consultation document identified that providing information on odds assumes that players think through their decisions to gamble, when this may not always be the case (and is perhaps least likely to be true of problem gamblers). It also assumes that players will take the time to read the information provided. Nevertheless, it seems reasonable to suggest that at least some gamblers would spend less if they were properly informed about the odds of winning, and that such measures might be useful in limiting problem gambling.[6]

A recent survey suggests that some players have misconceptions about gambling.[7] Providing information on the nature of gaming machines might correct any misconceptions. Correcting these false impressions might help limit problem gambling.

The draft submission suggests that Council supports the introduction of measures to inform players about gambling machine characteristics and particularly the odds of losing and winning. This should include both internal venue signage that the house always wins and "second screens" on the machines that regularly interrupt game play to inform players about the odds.

Some information systems involve a degree of player identification where players have to choose to activate the tracking system. This means that information on player behaviour is confined to a single session on a single machine (and then only if the player activates the system). The preserves player anonymity. It limits opportunities for gambling operators to track, and target marketing at, individual players. However, it means that players can choose not to activate the system at all.

The draft submission suggests that council does not support a voluntary tracking system as it is unlikely to be used by those most at risk.

(f) **Hazard warnings/messages encouraging responsible gambling**

The consultation document suggests the casinos, pub and club gaming machine operators and the NZ Racing Board continue to be required to provide brochures and notices informing players about the hazards of gambling, encouraging players not to spend more than they can afford and setting out information on assistance for gambling problems.

Policies under the Gaming and Lotteries and Casino Control Acts currently require gambling operators to implement responsible gambling programmes at their venues. Under the Racing Act 2003, the New Zealand Racing Board has a similar function. These programmes usually consist of brochures and notices encouraging gamblers to bet at levels they can afford, and information on problem gambling services.

The draft submission suggests that Council supports the need to increase requirements for warning signs in venues and on machines, including:

- A clear, bold statement that "gambling can be harmful to your health" similar to cigarette packet warnings).
- Information on how to get help for a gambling problem.
- Public education material on the symptoms and causes of problem gambling; and
- Information on the minimum age limit for participating in gambling.

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[6] Department of Internal Affairs, G*ambling* A*ct 2003* C*onsultation on Possible Regulations*: *Prohibited Prizes*, H*arm Minimisation*. *Gaming Machine Profit Distribution and Accountability*, 2004. Page 23

[7] B Amey, *People's Participation in and Attitudes to Gaming, 1985–2000*, Department of Internal Affairs, 2001.

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(g) **National and area caps on non-casino gaming machines**

The consultation document does not propose a national cap on non casino gaming machines.

Section 314 of the Gambling Act creates a power to set national and/or area caps on noncasino gaming machines, by regulation. The document notes that Parliament specifically considered and rejected the possibility of a statutory cap on gaming machine numbers, during its consideration of the Gambling Bill.

The consultation document suggests that a national cap (or area caps) might undermine the right of territorial authorities to make decisions on the numbers of machines and venues in their districts. It also suggest that very low caps may encourage queuing and more intensive use of machines; encourage operators to retire less popular machines in favour of high turnover machines; and encourage operators to reallocate better performing machines to high turnover sites. This suggests that very low caps may lead to situations in which there are fewer machines but they are more harmful.

The complexity of the factors causing problem gambling makes it impossible to directly attribute changes in prevalence to the expansion of legalized gambling. Although the relationship between numbers of gaming machines and development of problem gambling is complex, the increase in gambling problems nationally and internationally is associated with the increase in availability of gaming machines, and controlling the overall number of gaming machines is a key measure in limiting gambling harm.

The draft submissions suggests that Council states that the existing requirements of the Act, for example the requirement for applicants to obtain territorial authority consent, will only go some way towards stemming the increase of gambling opportunities.

The draft submission suggest the Council disagrees with the conjecture on page 22 of the consultation document that a very low cap might lead to situations in which "there are fewer machines but they are more harmful". It suggests that Council submit that there would be community benefit in phasing in a statutory national and area cap on non-casino gambling machines as has been suggested by public health groups and a number of local authorities. This would ensure consistency between local authority areas.

(h) **Longer game duration (especially reel spin duration) for gaming machines**

The consultation document proposes that a minimum gaming machine game duration of 3.5 seconds be set.

One reason gaming machines are so strongly associated with problem gambling is that players know immediately whether they have won, and can play again and again, very quickly.

The state of Victoria recently introduced a minimum reel spin duration of 2.14 seconds, to stop manufacturers increasing the rate of play. An Australasian working party is considering a minimum game duration of 3.5 seconds. However, some research indicates that there are negative effects associated with slower reel times.[8]

The draft submission suggests that Council endorse the suggestion to introduce a minimum game duration of 3.5 seconds

(i) **Specifying some non-casino venues as unsuitable for gaming machines**

The Consultation document proposes the certain types of venues are specified as unsuitable for non-casino gaming machines. The proposed venues are outline in the section above: Summary Of Proposed Regulations.

[8] A Blaszczynski, L Sharpe and M Walker, The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling, unpublished paper, University of Sydney, 2001. See also the assessment of this research at www.dgr.nsw.gov.au.

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Section 313 says regulations may declare venues to be suitable or unsuitable for gaming machines. This recognises that some non-casino venues are unsuitable because of their potential for harm. For example: supermarkets, dairies and fast-food outlets might be unsuitable because children frequent them; any secure site, because gambling inspectors cannot immediately check that it complies with harm minimisation requirements; and any venue not capable of being electronically monitored, because some harm minimization measures might be implemented through the monitoring system.

Gambling machine licences have been previously issued to a number of venues that promote themselves as family restaurants. This has had an observed effect on the clientele at that venue, which now includes gamblers who are not diners.

The draft submission suggests that Council agree that some types of venues are inherently unsuitable for gambling machines, including all of the categories listed on page 23 of the consultation document. It also suggests that venues that promote themselves as family restaurants should be added to the list of sites that are unsuitable for gambling machines.

The draft submission also suggests that massage parlours and brothels should be declared unsuitable for gambling machines because these typically have opening hours that are supplementary to pubs and clubs. This means that problem gamblers could potentially leave a non-casino gambling venue at closing time and go directly to a brothel for the purpose of continued gambling.

(j) **Gambling venue design features**

The consultation document suggests that apart from requiring venues to have clocks there is insufficient evidence to promote other venue design requirements.

Problem gamblers, when interviewed, have said they lose track of time when gambling, or gamble longer than they intended. There is the potential for gaming machines to alert players after a set playing time. The document notes that other gambling venue design features might help reduce these effects. For example, natural light or clocks in venues, to ensure players are aware of the passage of time while gambling (and some Australian jurisdictions require clocks). The document also notes that many people think that the interior of gambling venues should not be visible from the street at all, in order to minimise impulse decisions to gamble. New Zealand casinos currently have to comply with this requirement as a condition of their licences.

The draft submission suggests that Council support the requirement that all gambling venues have clocks prominently displayed. It also suggests that Council support the requirement that gaming machines to alert players after a set playing time. It also suggests that Council oppose design features that may preserve or enhance problem gamblers' anonymity, including the partitioning of gambling machines from other parts of a non-casino venue and the blacking out of windows to prevent public viewing of problem gambling behaviour. It suggests Council support the introduction of venue design guidelines that challenges the ability of problem gamblers to hide their behaviour from social surveillance.

(k) **Restrictions on automatic teller machines (ATMs)** (section 6.4)

The consultation document proposes banning Automatic Teller Machines (but not EFTPOS terminals) in casinos, pub and club gaming machine venues and NZ Racing Board venues (ie TABs).

Section 313 of the Gambling Act and section 65F of the Racing Act set out powers to restrict the availability of automatic teller machines (ATMs) at gambling venues. Licence conditions currently restrict the numbers and location of ATMs in casinos. There are currently no such restrictions for pub and club gaming machine and New Zealand Racing Board venues. In Australia, many state jurisdictions prohibit ATMs from the gaming areas in casinos and non-casino gaming machine venues.

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The draft submission suggests that Council oppose to the availability of automatic teller machines (ATMs) in both casinos and non-casino venues because this mode of cash withdrawal helps preserve the anonymity of problem gamblers. If problem gamblers have to leave venues to get more cash from an ATM, they may reconsider whether to continue playing. EFTPOS facilities are adequate for recreational gamblers, and that the availability of EFTPOS facilities may be less harmful because the cash withdrawal involves a person other than the gambler. Also, the availability of EFTPOS facilities only gives venue staff an opportunity to assess whether a player is showing signs of a gambling problem.

(l) **Prescribing Responsible Advertising Codes**

Section 313 of the Gambling Act and section 65F of the Racing Act set out powers to prescribe codes requiring advertising of gambling to be responsible. The Advertising Standards Authority (ASA) currently administers a code for advertising gaming and gambling. The ASA has a complaints procedure that people can access if they consider an advertisement to be in breach of the Code.

(m) **Infringement offences relating to harm minimization**

The consultation document proposes regulations making it an infringement offence to breach some harm minimisation regulations.

The Department of Internal Affairs may deal with breaches of the Gambling Act by **prosecuting** offenders for illegal gambling or for specific offences. In addition, or as an alternative, it may choose to **cancel or suspend a licence**. If an offence is listed as an infringement offence and the breach is not serious enough to warrant prosecution, the Department (or Police) may choose to **issue an infringement notice**. This imposes a fine (called an "infringement fee").

The draft submission does not include suggestions regarding these proposals.

2. **Regulations On The Distribution Of Profits (Losses) And The Accountability Of Operators**

The Act states that only licensed non-commercial "societies" may own and operate the machines and only to raise funds for authorised purposes. Within the limits that the regulatory regime imposes, those societies decide which authorised purposes get money from the machines, and how much they get.

The Gambling Act 2003 also includes a wide range of other provisions that make the new noncasino gaming machine profit distribution system much stricter. In addition to this wide variety of provisions in the Act itself, section 114 also includes a power to make regulations regarding the application or distribution of net proceeds from non-casino gaming machines to the community.

(a) **Applying/distributing money to the community** (section 8.1).

The consultation document suggests that the regulations be stricter for groups that distribute gaming machine proceeds to the community and for venues whose net proceeds are distributed to the community.

In its submission on the Act the Council raised concerns about grant-making processes. It stated that the current grant distribution regime lacked in transparency, and was inaccessible to many potential applicants.

The draft submission suggests that Council support the submission of Local Government New Zealand that the entire distribution system needs to be much more transparent and inclusive. The system should also be based on the principle that money lost from a community should be returned to charitable causes in that same community. It suggests that Council advocate for an amendment to the Act or the establishment of a non-statutory system so that gambling machine community losses are distributed through local community committees.

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These committees should include representatives of civil society and local government. This would help to ensure transparent, more equitable funding for a wider range of charitable purposes on the basis of locally identified needs.

(b) **Minimum return to community purposes** (section 8.2)

The consultation document proposes that the minimum return to authorised purposes remain at 33%, of their revenue inclusive of GST (expressed as 37.12% of the GST exclusive figure). It proposes that in future all of a group's gaming machine revenue be included for this calculation (ie a minimum return to the community set at 33% of the GST inclusive sum of player losses, plus interest or other investment return, plus proceeds from the sale of fittings, chattels and gambling equipment).

Currently, licence conditions require gaming machine groups to apply or distribute at least 33% of player losses to authorised purposes. Some groups currently return much more than 33% to authorized purposes. The rapid proliferation of class 4 gambling venues and the current prevalence of gambling shops is evidence that there is scope to raise the minimum level of returns to the community.

The draft submission suggests the Council support the Department of Internal Affairs continuing to ensure that gambling societies (including clubs) minimise their administrative costs and maximise the returns to community. It suggests that Council support raising the minimum level of returns to the community submit that the following ratios should apply:

- The Government should receive a maximum of 25% of community losses;
- The non-casino gambling industry should receive a maximum of 25% of community losses;
- Local charitable causes should receive a minimum of 50% of community losses.

It is suggested that Council also raise concerns regarding the inequitably of the current system of distribution in terms of supporting some types of charitable purposes more than others. It is suggested that Council advocate for the establishment of community-based distribution committees to ensure an adequate minimum level of public accountability and transparency.

(c) **Processing grant applications** (section 8.5)

The Act says regulations can prescribe requirements for methods and processes to deal with applications for the distribution of net proceeds.

The draft submission suggests that Council advocate that regulations should require gambling machine societies to establish community/regional distribution committees with representation from territorial local authorities and the sports, arts, community, heritage and conservation sectors. Through these committees, societies should be required to establish quarterly grant cycles.

(d) **Accountability of gambling machine operators** (section 8.8)

The consultation document proposes a series of accountability procedures. The draft submission suggests that Council endorses all of the suggestions of pages 37-38 of the consultation document in relation to financial management, banking gambling machine community losses and the management of equipment, to ensure there is a minimal risk of fraud.

PROHIBITED PRIZES

The discussion document proposes that regulations under the Gambling Act 2003 maintain the current list of prohibited prizes, and add airguns, tobacco products, artefacts and businesses to the list.

9 Cont'd

Section 17 of the Gambling Act 2003 says that regulations may specify property that must not be offered as a reward for gambling or used to reward a winner of gambling. The following items, which are currently prohibited prizes under the Gaming and Lotteries Act 1977, continue to be prohibited until a regulation is made under the new Gambling Act: firearms and ammunition; liquor; second-hand goods; land not zoned residential; or vouchers or entitlements for any of these items.

Tobacco products are harmful, whatever the quantity. There are already laws to discourage their consumption (Smoke-Free Environments Act 1990). Alcohol can also associated with serious problems. Similarly it is not in the public interest to offer firearms, airguns, and ammunition as these can cause harm. Restricting second hand goods is a form of consumer protection intended to stop people offering second-hand goods that players don't know are poor quality. It is inappropriate to permit the offering artefacts, businesses or commercial/industrial land as prizes for any form of gambling.

The draft submission suggests the Council support the prohibition of various prize categories for the reasons stated on pages 9-11 of the consultation document. The draft submission suggests that Council submits that entitlement to the services of a prostitute should be prohibited for all forms of gambling. Although prostitution is now decriminalised, there remains a public interest in limiting the extent to which prostitution services may be condoned or promoted. The draft submission also suggests that Council submits that gambling venue operators should be prohibited from offering prizes to non-participants, including 'spot prizes', 'lucky seat prizes' or prizes based purely on entry to the venue.

DRAFT SUBMISSION

A draft submission is attached for consideration by the Committee. This submission includes the matters discussed above.

Staff Recommendation: That the Committee endorse the attached submission.

Chairman's Recommendation: That this matter be referred to a Council Seminar on Gaming on Monday 23 February 2004, so that elected members views can be canvassed and the submission referred to the Council meeting on Thursday 26 February 2004.