

Community & Services Committee
18 November 2021

Report for Agenda Item | Rīpoata moto e Rāraki take :1

Department: Finance, Legal & Regulatory

Title | Taitara Application to Relocate Seven Class 4 Gaming Machines - Wanaka

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to determine an application made by The Lion Foundation 2008 received on 14 September 2021 to relocate seven Class 4 gaming machines from Fitzpatrick's Irish Bar to Woody's Sports Bar, both premises of which are located in Wanaka and operated by the same licensee company, Fibs Limited.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 Under the Queenstown Lakes District Councils Class 4 and TAB Gambling Venue Policy (attachment A), there is consideration to the relocation of gaming machines within the district. Applicants must meet the criteria set out in the policy in order for the Committee to approve the relocation of gaming machines.
- 3 This approval is required by the Department of Internal Affairs who will then grant the appropriate licence to the applicant.

RECOMMENDATION | NGĀ TŪOHUNGA

- 4 That the Community & Services Committee:
 1. **Note** the contents of this report and;
 2. **Approve** the relocation of three gaming machines only from Fitzpatrick's Irish Pub to Woody's Sports Bar.

Prepared by:



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4/11/2021

Reviewed and Authorised
by:



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CONTEXT | HOROPAKI

- 5 The applicant, The Lion Foundation 2008, holds a Class 4 Venue Licence to operate a maximum of seven electronic gaming machines (EGM) located at Fitzpatrick's Irish Pub, 59 Helwick Street, Wanaka. Pursuant to section 98 of the Gambling Act 2003 (the Act), the applicant seeks territorial authority consent to relocate these machines to Woody's Sports Bar located at 33 Ardmore Street, Wanaka due to Fitzpatrick's Irish Pub ceasing trade at the end of September 2021. Section 98 states:

98 When territorial authority consent required

A territorial authority consent is required in the following circumstances:

- (a) if a corporate society proposes to increase the number of gaming machines that may be operated at a class 4 venue (whether by way of an application for, or amendment to, a class 4 venue licence, and whether or not in association with an application for ministerial discretion under [section 95](#) or [96](#));
 - (b) if a corporate society applies for a class 4 venue licence and a class 4 venue licence has not been held by any corporate society for the venue within the last 6 months;
 - (c) if a corporate society proposes, in accordance with a relocation policy of the territorial authority, to change the venue to which a class 4 venue licence currently applies.
- 6 Section 101 of the Act states that a territorial authority must adopt a Class 4 venue policy. A relocation policy may also be considered under section 101(5) which states:
- (5) A **relocation policy** is a policy setting out if and when the territorial authority will grant consent in respect of a venue within its district where the venue is intended to replace an existing venue (within the district) to which a class 4 venue licence applies (in which case [section 97A](#) applies).
- 7 Queenstown Lakes District Council implemented a Class 4 and TAB Gambling Venue Policy to regulate the growth and location of Class 4 (non-casino electronic gaming machines) and Totalisator Agency Board (TAB) gambling within the district. This was first adopted on 19 March 2004 and is required under section 102(5) to be reviewed every three years. The policy is currently being reviewed with full revisions being presented to Council in 2022 for consideration.
- 8 Should a relocation application be approved, the effects of this in relation to both premises involved and the gambling licence are stated under section 97A of the Act which states:

97A Effect of relocation

- (1) This section applies when—
 - (a) a territorial authority has adopted a relocation policy (as defined in [section 101\(5\)](#)); and
 - (b) in accordance with that policy, the territorial authority grants consent in respect of a venue (the **new venue**) to replace an existing venue (the **old venue**); and
 - (c) a new class 4 venue licence is granted in respect of the new venue.
- (2) When this section applies,—
 - (a) the Secretary must cancel the class 4 venue licence that relates to the old venue, in which case—
 - (i) the cancellation takes effect on the date on which the new class 4 venue licence takes effect; and
 - (ii) there is no right of appeal against the cancellation; and
 - (b) despite [section 100\(1\)\(b\)\(i\)](#), the maximum number of gaming machines permitted to operate at the new venue at the time when the new class 4 venue licence takes effect 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; and
 - (c) for the purposes of this Act,—
 - (i) if the old venue was a venue to which [section 92](#) applied, the new venue must be treated as a venue to which section 92 applies; and
 - (ii) the old venue must be treated as if no class 4 venue licence had ever been held by any society for that venue (which means that, under [section 98](#), consent will be required for that venue if a class 4 venue licence is subsequently applied for in relation to it).

Class 4 and TAB Gambling Venue Policy

- 9 Under the section “Location of Class 4 Gambling or TAB Venues” of the policy, Class 4 and TAB venues may be established in the district subject to meeting the following criteria:

9.1 Meeting application and fee requirements:

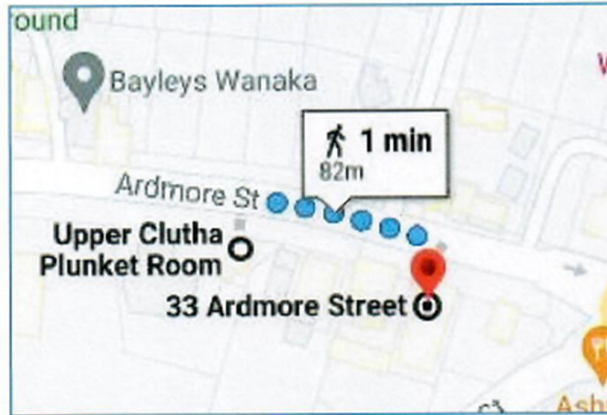
1.1. A complete application was submitted and subsequent fees were paid at time of lodgement.

9.2 Proposed new venues must not be established in any residential zone:

2.1. The new premises is located in the Wanaka Town Centre zone under the Queenstown Lakes District Plan.

9.3 Venues are not located within 50 metres of or adjacent to any school, early childhood centre, kindergarten, place of worship or community facility. The applicant will be required to demonstrate that the proposed venue will not adversely impact on such institutions:

9.3.1. The applicant has stated that there are no sensitive sites located within the vicinity of the proposed premises and that the nearest sensitive site, that being the Upper Clutha Plunket Room, is located approximately 82 metres from the premises:



Distance from proposed venue to Plunket. Plunket operating hours as per below (as at 10 August 2021)

Upper Clutha Plunket Room

Directions Save Call

Child health care centre in Wanaka

Address: 51 Ardmore Street, Wanaka 9305

Hours:

Tuesday	9am–3pm
Wednesday	9am–3pm
Thursday	9am–2pm
Friday	9am–2pm
Saturday	Closed
Sunday	Closed
Monday	9am–3pm

9.3.2. The applicant states that the operating times of the Plunket Room does not coincide with the normal trading hours of the premises, these being:

Venue operating hours:

Woodys Sports Bar

Website Directions Save Call

4.3 ★★★★★ 52 Google reviews

Sports bar

Lively sports bar featuring pool tables & foosball, plus occasional DJs & live music.

Service options: Dine-in · No delivery

Address: 33 Ardmore Street, Wanaka 9305

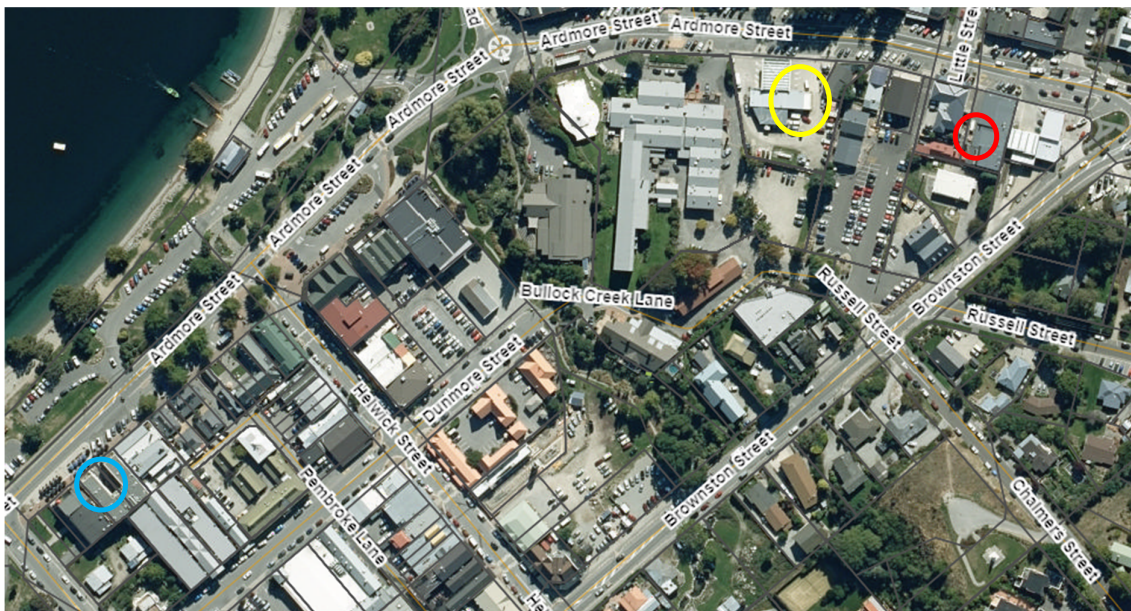
Hours:

Tuesday	Closed
Wednesday	4pm–2:30am
Thursday	4pm–2:30am
Friday	4pm–2:30am
Saturday	4pm–2:30am
Sunday	4pm–12am
Monday	Closed

9.4 Not being located so as to provide for a concentration of gambling venues:

9.4.1. Fitzpatrick’s Irish Pub holds a Class 4 Venue Licence to operate a maximum of seven gaming machines, however only chose to operate three machines when the business was open, it is these machines which will be relocated to Woody’s Sports Bar.

9.4.2. Within the Queenstown Lakes District as a whole, six premises are licensed to operate Class 4 gaming machines, three of these premises are located in Wanaka. The below aerial photo identifies the location of these premises in relation to the Woody’s Sports Bar, marked by the red circle; Wanaka Bullock Bar (operate 18 machines) marked in yellow, is located approximately 140 metres from the Woody’s premises. The Water Bar (operate 9 machines) marked in blue, is approximately 460 metres from the Woody’s premises. In total 30 gaming machines have been and will continue to be operating in the Wanaka area.



9.5 Not being a venue at which the primary activity is associated with family or children’s activities:

9.5.1. Under the Sale and Supply of Alcohol Act, Woody’s Sports Bar operates in the nature of a tavern, which is defined as:

tavern—

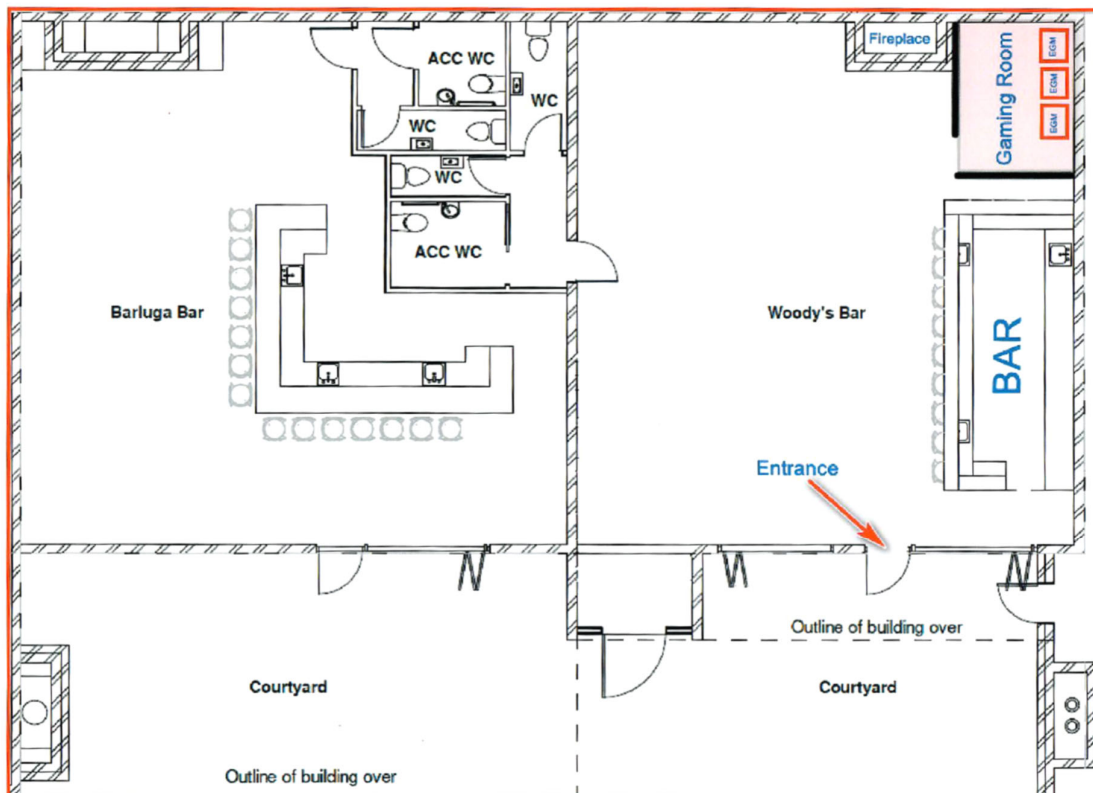
- (a) means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but
- (b) does not include an airport bar

9.5.2. The licensee of the premises, FIBS Limited, holds a tavern style licence, number 68/ON/0554/2019 with an expiry date of 3 February 2020. The renewal application is currently being processed.

9.5.3. Under the tavern licence, the premises holds a supervised designation which means minors are not permitted on the premises unless accompanied by a parent or legal guardian.

9.6 Evidence of a separation of the gambling area from non-gambling area:

9.6.1. The applicant has provided the below floor plan. There are two premises under the one alcohol licence, these being Woody's Sports Bar and Rove (previously operating as Barluga):



9.6.2. The gaming machines will be located within a purpose built gaming room that will be located adjacent to the bar, in the rear right corner of the premises. This area is only large enough to fit three machines. The machines located in this room will not be visible from the principal entrance.

9.6.3. In the below photo, the red square identifies the location of where the gaming room will be built, once approval has been granted:



Public Notice Provisions

10 In accordance with the policy under “Public Notice Provisions”, the applicant publically notified (attachment C) the application in the Otago Daily Times on two consecutive Saturdays, and in two local newspapers over two consecutive weeks. The publication information is as follows:

Wanaka Sun	3 & 10 June 2021
Otago Daily Times	17 & 24 July 2021
Mountain Scene	30 September & 7 October 2021

11 The applicant did arrange to have all public notices carried out on similar dates of each other in the Otago Daily Times, Wanaka Sun, the Mountain Scene and The News, however only the Wanaka Sun was able to fulfil the brief by not advertising the application correctly. The Otago Daily Times and the Mountain Scene had to be re-advertised.

12 The policy states that public objections can be made 21 days from the first public notice being carried out, in this case in the Otago Daily Times. No objections or public interest were received regarding this relocation application.

Application

13 The application was received on 14 September 2021 (attachment B). Additional documents submitted are:

- * Supporting letter from the property owner, Ardmore Property Trust, approving the maximum number of four gaming machines that can operate on the premises.

- * Supporting letter from the licensee confirming training will be provided by The Lion Foundation to assist staff to effectively minimise the impact of gambling and related harm to customers and the community.
 - * A copy of the Lion Foundation’s “Harm Minimisation Policy and Policy for Minimising Risk of Underage Gambling”, providing information on training, identifying problem gambling and its procedures, record keeping, exclusion orders and legal responsibilities.
 - * Evidence of approved grants The Lion Foundation gave back to the community for a two year period from 1 April 2019 to 31 March 2021.
 - * Details of staff involved with the management of the premises.
 - * Proof of public notices carried out in the Otago Daily Times, Wanaka Sun and the Mountain Scene.
 - * A copy of the alcohol licence confirming the premises operates as a tavern.
- 14 Evidence of police approval was not requested. As part of the renewal process for the alcohol licence, police undertake background checks of the directors of FIBS Limited and their duty managers. While originally police raised concerns regarding the extended licensed hours, the suitability of the licensee or management did not come into question. On 28 September 2021 Wanaka police confirmed that their original opposition to extend the licensed hours was withdrawn which reaffirms the licensee’s suitability.

Department of Internal Affairs

- 15 Under section 100(1)(a) of the Act the territory authority must provide a decision to the applicant within 30 days after receiving the application. With the application being received on 14 September 2021 the last date for the issue of a decision would have been 27 October 2021.
- 16 On 12 October 2021, Rochelle Brown, Senior Gambling Regulator with the Department of Internal Affairs (DIA) was made aware that compliance to s.100(1)(a) would not be met as the application is to be heard by the Committee on 18 November 2021. Ms Brown advised that this should not affect the application to relocate the gaming machines.
- 17 Due to the closure of Fitzpatrick’s Irish Pub on 27 September 2021, approval was required from the DIA to extend the Class 4 Venue Licence for that premises, while the relocation application was being determined. On 15 October 2021 (attachment D), Ms Brown approved the extension of the licence until 4 February 2022.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 18 **Option 1:** Approve the relocation of seven gaming machines from Fitzpatrick’s Irish Pub to Woody’s Sports Bar.

Advantages:

- 19 The number of total gaming machines in Wanaka and the district as a whole will remain the same, the relocation of gaming machines will not increase the growth of gambling in the area.
- 20 Continued funding and grants are given back to the community through The Lion Foundation.

Disadvantages:

- 21 Continued gambling could contribute to gambling related harm in the community.
- 22 **Option 2:** Decline the application to relocate seven gaming machines from Fitzpatrick's Irish Pub to Woody's Sports Bar.

Advantages:

- 23 The applicant, The Lion Foundation 2008 would lose the licences it already has in place for the current number of machines, this would then see a reduction in the total number of gaming machines in the Wanaka township.
- 24 Gambling in the community may decrease with the lack of opportunity to play gaming machines.

Disadvantages:

- 25 The applicant will lose the ability to hold as many gaming machines in the Wanaka township therefore less community funding availability.
- 26 The licence issued by the Department of Internal Affairs would not be approved for the applicant and the move of machines to the new venue would not be able to occur.
- 27 **Option 3:** Decline the application to relocate seven gaming machines but approve the relocation of three machines only.

Advantages:

- 28 The limit of three machines would prohibit the applicant adding another four machines into the premises in the future without the Councils knowledge, thereby allowing the Council to control and manage the growth of gambling in the district as per the policy.
- 29 The decrease in the number of machines would further align with the policy by contributing towards minimising harm caused by gambling.

Disadvantages:

- 30 The applicant will lose the ability to have as many gaming machines in the Wanaka township.
- 31 The community would lose additional funding if less machines were operating in the Wanaka township.
- 32 Note: there is nothing in the policy to prevent future applications to increase the number of machines in the premises. Applicants are permitted to have up to nine machines in any one venue.
- 33 This report recommends **Option 3** due to Council being required to consider and meeting the objectives of its own Class 4 and TAB Gambling Venue Policy.
- 34 There has been no interest from the public regarding the relocation of the gaming machines in relation to this application.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 35 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because there are no changes to any bylaw or council policies.
- 36 No public consultation is required, however public advertising of the application was undertaken by the applicant in accordance with the policy.
- 37 The persons who are affected by or interested in this matter are local residents, the community and problem gambling services.

> MĀORI CONSULTATION | IWĪ RŪNANGA

- 38 The Council has not consulted with iwi regarding this relocation application. The policy is currently under review which may then be put to iwi.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 39 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00006 Ineffective management of social nuisance issues within the [QLDC Risk Register](#). This risk has been assessed as having a moderate inherent risk rating.
- 40 The approval of the recommended option will support the Council by allowing us to retain the risk at its current level. This is due to there being no significant changes to effects of the community.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 41 There are no financial implications as a result of relocating gaming machines to a new venue.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

42 The following Council policies, strategies and bylaws were considered:

- ‘Thriving People’, ‘Pride in Sharing our Places’ and ‘Opportunities for All’ principles of the Vision Beyond 2050 have been considered.
- Class 4 and TAB Gambling Venue Policy.
- Significance and Engagement Policy.

43 The recommended option is consistent with the principles set out in the named policies.

44 This matter is not included in the Ten Year Plan/Annual Plan as it relates to the relocation of gaming machines at a cost to the licensee and applicant.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

45 The recommended option:

- No funding is required through the Ten Year Plan or Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Class 4 and TAB Gambling Venue Policy
B	Relocation application
C	Proof of public notices
D	Email confirmation from DIA granting extension to Class 4 Venue Licence issued for the premises Fitzpatrick’s Irish Pub