Kōmiti Whakahaere ā-Ture
Regulatory Committee

OPEN MINUTE ITEM ATTACHMENTS

ITEM  TABLE OF CONTENTS  PAGE

11  Request by the Lion Foundation 2008 Ltd that the Committee grant an exception to the council’s Class 4 Gambling (Pokie) Venue Policy
   A.  1 September 2020 - Regulatory Committee: Item 11 - Request by the Lion Foundation 2008 Ltd that the Committee grant an exception to the council’s Class 4 Gambling (Pokie) Venue Policy 3

14  Objection to stormwater connection to public manhole located within 73 Park Rise Campbells Bay
   A.  1 September 2020 - Regulatory Committee: Item 14 Objection to stormwater connection to public manhole located within 73 Park Rise, Campbells Bay - Objection statement Mr Jens Richter 7

Note: The attachments contained within this document are for consideration and should not be construed as Council policy unless and until adopted. Should Councillors require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Supplementary Information

Timeline and Summary – Lion Foundation 2008 Ltd – Industry Bar / Ha’apai Vue Bar

The Lion Foundation 2008 Ltd are a non-profit company that runs gambling machines in bars and other venues around the country. They hold a class 4 gambling operator’s licence and must obtain a class 4 gambling venue licence for each venue they have machines at. They operated 9 gambling machines at the venue previously known as Industry Bar: more lately known as Ha’apai Vue Bar. A timeline of events is:

- **13 March 2019** Industry Bar purchased by Finnz Sports Bar Ltd from Singh Hospitality Ltd
- Venue operated by the new owners as a tavern (with gambling machines) on alcohol Temporary Authorities until **13 September 2019** when their Temporary Authority expired and they stopped trading
- **1 October 2019** business purchased by True Blue Ltd
- **2 October 2019** True Blue Ltd apply for an alcohol Temporary Authority
- **On 14 October 2019** Lion Foundation surrendered their class 4 gambling licence for the venue. They were required to because gambling had not been conducted at the venue for 4 weeks. However, had they wished they could have applied earlier to the Secretary for Internal Affairs for the machines to remain inactive for a longer period.

The Lion Foundation have said: "**True Blue Bar Limited’s agreement to purchase the business is dated 30 October 2019, after the surrender. It is not possible to seek permission for a venue licence to remain inactive, when the licence has already been surrendered. Further, time required for a new purchaser to obtain a liquor licence is not one of the Department’s qualifying factors in granting such extensions.**"

Our records show a Sale & Purchase agreement signed on 1 October 2019. Lion Foundation have a copy of S & P agreement signed 30 October 2019. I am also aware of a venue in Three Kings that is waiting for their alcohol licence to be processed and the Department of Internal Affairs (DIA) have allowed them to keep the machines inactive for several months.

- **21 October 2019** True Blue Ltd start trading as a tavern with an alcohol Temporary Authority but with no gambling machines operating. However, no action was taken by the Lion Foundation to apply for a new class 4 gambling venue licence.

The Lion Foundation have said "**Lion Foundation didn’t seek a gaming licence for True Blue Bar Limited as this venue operator did not meet the Lion Foundation’s high expectations as a suitable operator.**"

- **20 January 2020** True Blue Ltd stopped trading on expiry of the Temporary Authority
- New purchaser sought but nothing finalised by Covid 19 lockdown **25 March 2020**.
- If an application for a new class 4 venue gambling licence had been received by the Department of Internal Affairs by **13 April 2020** then no Territorial Consent would have been required for the application.
• No application for a new class 4 gambling venue licence was received by the DIA and as the 6-month deadline has passed Territorial consent must now be granted before any application can be made to the DIA for class 4 gambling to take place at the venue.

• 13 May 2020 Sale and Purchase agreement for the business signed between True Blue Bar Ltd and Eastern Coffee Co Ltd conditional on obtaining a full alcohol licence and the gambling machines being reinstated.

• 21 July 2020 Lion Foundation apply to Council for a consent by way of exemption from Councils Class 4 Gambling Venue (Pokies) Policy

• In asking for the consent the Lion Foundation have stated that

  "The venue in question was in the middle of a change in ownership when the lockdown occurred. The new owners did not have any prior gaming experience.

  The Department of Internal Affairs (and The Lion Foundation) has very high expectations regarding key person suitability and harm minimisation. The Lion Foundation representative, Mark Wallace, wished to meet with the new owners face to face in order to:

  • Get to know the new owners and to obtain confidence that the new owners’ business methods and culture accorded with Lion Foundation’s high expectations;
  • Go over in detail the harm minimisation policy and harm minimisation expectations;
  • Go through the venue agreement, in particular the obligations included in the venue agreement regarding harm minimisation and regulatory compliance;
  • Carefully explain the obligations of being appointed a formal venue manager (the responsibility for supervising the gambling and ensuring the bankings are done on time); and
  • Assist the venue key persons complete their personal information forms. It is the Lion Foundation’s preference for the form and the various declarations to be explained to the venue key persons to ensure that full disclosure is made.

  A physical venue inspection was required in order to confirm the floorplan layout. The licence application requires a The Lion Foundation representative to certify that the floorplan is true and correct.

  It is also a requirement for the venue staff to undertake harm minimisation training prior to the venue being licensed. The initial training is always undertaken face to face to ensure maximum understanding and engagement.

  Face to face meetings were prohibited under both level 3 and 4 (prohibited from 25 March 2020 to 12 May 2020).

  The face to face meetings could only occur and staff training could only occur once Auckland returned to level 2 on 12 May 2020 (after the 13 April 2020 deadline)."
The owner of the venue (the Landlord) has also contacted the Council and stated:

“Further to the Letter dated 21 July from Jarrod True from True Legal who act for The Lion Foundation 2018. The Elizabeth Trust is the owner of the above premises.

We have had multiple Purchase agreements for the sale of Ha’apai Veu Bar at our premises fail because of the timing of Covid-19 Restrictions for the Hospitality industry. Had it not been for the affects of Covid-19 we would have had the Gaming Licence change to a New purchaser of the business within the time frame required by The Department of Internal Affairs.

We have had 65% of our Rental Income affected by the situation and we are having to pay 65% of the outgoings that would normally be paid by our Tenant which is a financial burden for us. My Mother Betty McIroy who is a Trustee of The Elizabeth Trust is 90 Years old and relies on the income generated from the building. Please could you help us to retain the Gambling Licence for the premises.”

- There are currently 20 class 4 gambling venues operating in the Howick Ward one of them at 2 Dunrobin Place.

The Regulatory Committee has granted one previous exemption to the Policy, in November 2017. The reasons for granting that exemption included:

- The applicant was an RSA club and not a commercial venue
- The club relocated due to a fire at their club premises which led to a dramatic drop in membership and then the sale of its premises.
- The club merged with another club nearby which had no gaming machines.
- The number of gaming machines relocating dropped from 16 to 9
Statement regarding objection to stormwater connection within 73 Park Rise Campbells Bay

Firstly, some corrections and additions to the executive summary published as part of the meeting agenda:

1. After meeting with Council's senior development engineer (Cedric Daniel) - Point 9 in the summary - landowners supplied information on significant flooding issues across the driveway which regularly cut off 4 houses (73 E-H) during heavy downpours. Photographic evidence was emailed to Council. Only partial pictures showing the stream overflowing downstream of the driveway bridge has been supplied in Attachment E. There is no evidence that this information was supplied to Aireys Consultants to consider as part of the Infrastructure report and contradicts the report's findings.

2. The landowners have collectively raised their objections and have supplied consolidated feedback during the process. It is therefore wrong to label owners Jens Richter and James Ledy as prominent objecting landowners when most of the communication was channeled through them. The landowners of the 14 dwellings are united in their views and objection to the proposed connection.

3. Talking to Peter Lowe (items 13/14), he was also unaware of the existing stormwater issues raised above and there is no evidence that he sought clarification and material from Council to address in his report.

4. Item 19: Landowners did not notify Council that the public line was blocked. Landowners repeatedly raised that the outlet according to the Council plans cannot be found. Landowners requested confirmation that the stormwater pipe exists and where it discharged. Council then sent contractors to locate the pipe and during that process found that the pipe full blockage due to root invasion and significant damage. Looking through Attachment E Auckland Council Communication I can see requests for clearing the line and identification of the outfall, but no evidence that this was executed and achieved.

5. Item 21: Dave Serjeant had a single face to face onsite meeting with landowners. There were no other meetings, only emails.

Details of our objections have been compiled in the attachments for the meeting. I am focusing my statement today on the most important reason for objecting the connection - the flooding issue on the drive that regularly cuts off four houses from access to Park Rise.

1. Flooding of the driveway was unknown when we moved into the subdivision in 2004. Over the years, flooding eventually occurred first during large-scale storms, then more frequently after severe downpours and for the past years it has been a regular occurrence.

2. Flooding issues have appeared and increased in line with development of new houses in the catchment area. As new houses completed, the frequency of impassable driveway increased.

3. Council have a public stormwater pipe under the driveway of 73 Park Rise. Throughout this process it has transpired that Council
   1. Do not have reliable information on the location and outfall of the pipe
   2. Have no regular maintenance plan to ensure the stormwater pipe is in working condition

4. My property is directly below the proposed subdivision. I have never seen any stormwater runoff from the existing dwelling on 77 Park Rise.

5. The stormwater pipe in question currently only receives intake from one small dwelling (71A Park Rise) and run-off from the 4m drive.

6. The proposed subdivision will (a) remove the permeable area that currently sufficiently deals with the stormwater on site, (b) capture stormwater from two larger dwellings and (c) direct the stormwater via a stormwater pipe directly to the most vulnerable area of the drive where flooding cuts off access to 4 houses within 73 Park Rise.
The decision whether to approve connection to the stormwater pipe is not only a question of access. If granted it channels stormwater into an area that does not cope at the moment. We request Council reject the application and reconsider it once the stormwater system the application asks to connect to has been rectified to deal with current and additional stormwater discharge requirements.