

Local Government New Zealand
te pūtake matakōkiri

07 March 2003

Hon Margaret Shields
Mayor / Chair
Greater Wellington - The Regional Council
P O Box 11646
WELLINGTON

E 107/07/06	
Doc No. 153481	
Referred to	Date/trn
M. Shields	

SC 25-01

Dear Margaret

The Responsible Gambling Bill

The Responsible Gambling Bill, currently awaiting its second reading in Parliament, contains provisions that are of concern to our National Council.

Overall, the purposes of the Bill are a significant improvement on the status quo, containing as they do provisions to control the growth of gambling, preventing and minimising harm caused by gambling, ensuring that money from gambling benefits the community and facilitating community involvement in decisions about the provisions of gambling.

However, in seeking to legislate to gain these improvements, we believe the Bill in its current form falls short in two critical areas. These are:

- the extent to which communities can influence the level of gaming machines in their towns and cities; and
- the processes by which gaming machine profits are allocated.

There has been considerable information promulgated by those who support the provisions of the Bill as they stand, and it's important that decision makers inside and outside Parliament, and the community as a whole, is made aware of the significant concerns we have in these two crucial areas.

We need you to support us in the following ways:

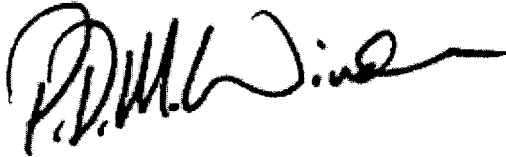
- read the information packs that are being sent with this letter;
- contact your local MP and other decision makers and highlight our concerns; and
- use the information in the national press releases to send your own release to local media, or contact them to express your concerns.

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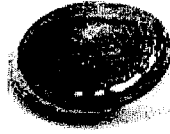
If we can get the voice of local government heard on these important issues, we still have time to influence the outcome of the Bill.

If you have more queries please contact either Mike Reid at *Local Government New Zealand* email mike.reid@lgnz.co.nz or Sue Piper, *Local Government New Zealand* National Councillor and spokesperson on gambling email sue.piper@wcc.govt.nz

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Winder', with a long horizontal flourish extending to the right.

Peter Winder
Chief Executive
Local Government New Zealand



Local Government New Zealand
te pūtahi matakōkiri

MEDIA RELEASE

Kiwis Deserve A Fair Pokie Profit Distribution Process

For immediate release on Monday March 10 2003

New Zealanders deserve to have a fair system to distribute public money gained as profits from pokie machines by private gaming trusts, says Sue Piper, Local Government New Zealand (LGNZ) National Councillor and spokesperson on gambling.

Commenting on changes LGNZ is proposing to the Responsible Gambling Bill, currently awaiting its second reading, Councillor Piper says there has been a lot of misinformation about the best way to distribute profits from pokie machines.

“Amendments LGNZ and the Community Roundtable, a network of national social service agencies, are proposing to the Bill will make it far easier for community-based decisions to be made about the fair distribution of pokie profits.

“We believe that overall accountability for the distribution of profits from all commercial (non-casino) gaming profits should be the responsibility of the Lottery Grants Board and involve:

- A national committee for evaluating national applications;
- Regional committees for regional and large-scale local applications;
- Local committees for small scale and frequent applications administered by local authorities.

Councillor Piper says decisions about where the millions of dollars in pokie profits – which are widely recognised as being public money – should be spent should be subject to the same standards that apply to the distribution of other public money.

"New Zealand has a history of gambling profits being distributed through publicly accountable bodies and the same system needs to apply to pokie profits.

"The existing process for the distribution of pokie profits is characterised by a substantial level of both recorded and anecdotal misuse. As the level of profits from these machines skyrockets the incentives for improper use of these fund also increases."

She says the problems are compounded by an apparent bias in the way pokie profits are being distributed with much more money going to sport and active recreations, and less to social service organisations and arts and cultural groups.

"In our view the best approach, which does not duplicate existing funding mechanisms, is to utilise the accountability frameworks provided by the New Zealand Lottery Grants Board and territorial local authorities.

"This will be an effective mechanism that will provide far greater accountability and transparency and ensure resources will flow in an equitable way to applicants at national, regional and local levels."

Ends

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MEDIA RELEASE

Communities Must Have Right to Set Limits on Pokie Venues

For immediate release on Monday 10 March 2003

New Zealand communities must have the right to be able to set limits on the number and location of gambling venues in their local areas, says Sue Piper, Local Government New Zealand National Councillor and spokesperson on gambling.

Councillor Piper says there is an urgent need to immediately amend the Responsible Gambling Bill, currently awaiting its second reading, to accurately reflect community sentiment on this issue.

"Local Government New Zealand, the national voice of local government, knows there is increasing community concern that gambling is a major social problem in many parts of New Zealand.

"As the Act stands, local communities will have no ability to limit the number and location of existing gaming venues, defined in the law as those established before 17 October 2001 when the Bill first entered Parliament.

"Given the exponential increase in pokie machines, and venues, in certain parts of New Zealand in recent years, this means that provisions for controlling the number of such venues under this Bill will be severely limited."

Councillor Piper says that, on the one hand, the Bill requires territorial local authorities to develop, consult and adopt a gaming machine venue policy within six months of the Bill being enacted while, on the other, limiting what this policy can influence.

“As a result, this Bill places local authorities, and their elected members, in an invidious position. While placing a responsibility on them to consult on draft venue policies, it fails to give them the power to implement the community’s wishes about where machines can be located and how many machines should be in each community.

“We believe that it is inconsistent, and bad law, for the Bill to treat existing gaming operators differently to future gaming operators.”

She says the solution is for all commercial gaming machine operators to be brought under the same regulatory framework, regardless of when the activity is licensed.

“A simple way of doing this would be for operators to show that their venues comply with the local authority gaming venue policy whenever they apply, or reapply, for an operator’s licence.”

Ends

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Solving the problem of distributing pokie machine profits

The (Responsible) Gambling Bill provides a new framework for gambling in New Zealand. It also provides an opportunity to institute a transparent and accountable community process for the distribution of commercial gaming machine profits for benefiting communities.

So what's wrong with the status quo?

The legislation requires that commercial gaming machine (class 4) profits be spent on activities that are beneficial to the whole, or a section of, the community. Profits generated from class 4 gaming machines are allocated to community projects by more than 200 local and national trusts that own the machines. The process is, however, less than ideal:

- In the case of smaller hotel-based trusts the proximity of those who make allocation decisions with the commercial owners/manager has led to a fear of collusion -that grants will be used to promote business and patronage at the facility. There are numerous actual and anecdotal examples of abuse.
- There are no “conflict of interest” rules. Those allocating grants may legitimately be members of organisations applying for grants. This creates a perception of unfairness from the view of those applicants not represented.
- The names and backgrounds of those making allocation decisions are seldom publicly known. Neither is the process by which they are appointed or the guidelines used to assess applications.
- Although funds are required to benefit community activities analysis of grants made show that only 2% went to arts and cultural activities and about 20% went to cultural and social activities.
- The profits are “public money”, which is made clear in the Bill, yet allocation decisions are made by private trusts. Allocation processes are often inconsistent with accepted standards for distributing public money.

Are there other options?

Option One: The Responsible Gambling Bill

The Bill places a restriction that prevents gaming machine operators, venue managers, publicans etc. from taking part in the process of determining where the funds go. (This restriction has been in place since October 2002.)

Advantages	Disadvantages
<ul style="list-style-type: none"> • The separation of venue operator and grant allocator is likely to reduce the potential for grants to be given to organisations that in turn agree to frequent or benefit in some way the venue operator. 	<ul style="list-style-type: none"> • The amendment does nothing for the systemic bias which results in an uneven allocation of funds across sectors. • The proximity of “profits” with the liquor and gaming sector will continue to make some groups e.g.

<ul style="list-style-type: none"> This would remedy a common complaint about the status quo. 	<p>faith-based groups, reluctant to apply.</p> <ul style="list-style-type: none"> The large number and variety of trusts and their approaches to dealing with applications means that it will be difficult to ensure compliance to prevent informal contacts between venue operators and trustees. The proposal is not efficient and will result in the creation of a large inspectorate to monitor compliance.
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Option Two: Distributing profits through the existing Lottery Grants Board process.

This option (originally recommended by officials) would allocate all profits through the existing LGB structure in the same way as Lotto profits.

Advantages	Disadvantages
<ul style="list-style-type: none"> Pokie profits located in “public realm” treated same as “Lotto” profits. The LGB is well known, processes are accountable and transparent. Transaction costs low. Grants allocated relatively evenly across all sectors. 	<ul style="list-style-type: none"> Profits would not remain in the community from where they were raised. LGB processes are not regarded as responsive by small community applicants. LGB has no effective “local” presence.

Option Three: Distributing profits through representative committees at a regional and local level¹

This model requires the establishment of regional distribution committees and local distribution committees administered by local government, such as the Community Sports Fund. The Lottery Grants Board would provide the mechanism by which profits are distributed to the various allocating committees.

Advantages	Disadvantages
<ul style="list-style-type: none"> Allocation in public realm, bound by accountable & transparent processes guaranteed by the LGB Profits remain at regional and local level. Allocations made by committees drawn from communities and appointed through a public process. Barriers of entry for applicants low or nil. Links to community outcome and planning process facilitated by local authorities. 	<ul style="list-style-type: none"> Issues around how to decide formulas for determining the share of profits to be determined locally and regionally.

¹ This model is described in detail in a separate paper available from **Local Government New Zealand**

Backgrounder – Venue Policies

Why the local government venue policies contained in the Responsible Gambling Bill are tokenism and need to be enhanced

The Responsible Gambling Bill promises that communities, through their councils' gaming venue policies, will have the ability to control the number and concentration of gaming machines in their cities and districts. The Bill, however, fails to deliver.

What does the Responsible Gambling Bill require?

Under the Responsible Gambling Bill existing or prospective gaming operators applying for an operator's license to establish new (non-casino) gaming venues must be able to show the Department of Internal Affairs that any proposed venue is consistent with the local authority's gaming machine venue policy.

Once the Bill is enacted territorial local authorities will have six months in which to develop, consult and adopt a gaming machine venue policy. These policies must outline where gaming machines may be located within the district and city, and whether or not there are any rules with regard to numbers and density of machines. While councils must adopt a policy, that policy could range from deciding to have no restrictions on the location of machines to one in which any new venues are prohibited.

So what's wrong with the proposed venue policy framework?

While venue policies will provide communities with a mechanism to regulate the numbers and location of new venues, there is no ability to influence the number and location of existing venues.

Very simply, venue policies only apply to new venues established after 17 October 2001 (the date at which the Bill first entered Parliament) and only to new venues after that date. In other words, should a community decide to change an existing policy, perhaps with a view to reduce the number of gaming venues in a neighbourhood, any new policy would have no effect on existing venues.

As a result, the Bill places local authorities, and their elected members, in an invidious position. While placing a responsibility to consult on draft venue policies' it fails to give them the power to implement the community's wishes should there be a demand for a reduction in the level of machines. In effect the requirement to consult and prepare draft venue policies will raise community expectations that they can influence the level of

¹ The Bill requires councils to use the special consultative procedure and to undertake additional consultation with Maori.

gaming in their communities. When they realise that their venue policies lack the required “teeth” to meet expectations resulting frustration is likely to be felt by councils and elected members who simply lack the “authority” to make a difference. It is ultimately a “Claytons” policy.

We believe it is inconsistent, and bad law, for the Bill to treat existing gaming operators differently to future gaming operators. The solution is for all commercial gaming machine operators to be brought under the same regulatory framework, regardless of when the activity is licensed. A simple way of doing this would be for operators to show that their venues comply with the local authority gaming venue policy whenever they apply, or re-apply for an operator’s licence.

In this way any changes to a community’s gaming venue policy would take effect at the point at which a venue operator is required to reapply for their operator’s licence.

While we understand the reluctance of Parliament to pass legislation that may have retrospective effect, we note that gaming is a licensed activity which can have negative social effects and in such cases it is accepted that licences have set terms. It is our strong contention, backed by legal opinion, that venue licences are not property rights, but a licence to operate a gaming machine in a given location. Parliament and the Government commonly exercise their right to place time limits on existing and new licences to operate.

What changes do we want?

There is increasing community concern that gambling is a major social problem and communities have a right to be involved in setting the level and location for local gambling venues.

Council venue policies are an appropriate means for setting limits on gambling in communities, however they must be extend to apply to existing venues, not just new venues. Unless communities are given the appropriate tools to influence the level of gaming within their town and cities, people will feel increasingly frustrated and disappointed that the Bill does not give them this right in their own community.

We seek an immediate amendment tot he Bill to ensure that venue policies apply to existing licences.

Backgrounder – Distributing Pokie Profits

Why private trusts should not distribute public gaming profits – the rationale for a new approach

**A Position Paper prepared for *Local Government New Zealand*
February 2003**

This paper summarises Local Government New Zealand's concerns about the way in which the Responsible Gambling Bill deals with the allocation of commercial gaming machine profits.¹ While we do not wish to criticize or diminish in any way the work that many, if not the majority, of gaming machine trusts do with regard to their support for community activities, especially sporting activities, the nature of the legislative framework governing the operation of these trusts is such that doubt is cast on even the most ethical and rigorous organisations.

Local Government New Zealand and the Community Roundtable (a network of national social service agencies) are promoting amendments to the Responsible Gambling Bill, currently awaiting its second reading. The Bill proposes an overall regulatory framework for gaming and gambling activities within NZ. In this it is well overdue. There are, however, some key issues that the Bill fails to adequately address, namely the failure to allow communities to control the location of existing gaming venues and the way in which pokie profits are distributed. This paper considers the second of these issues, the distribution of pokie profits.

Local government is concerned that the existing model for the distribution of pokie profits fails to provide communities with equitable access to grants. To rectify this failure we are promoting an amendment which calls for the distribution of commercial gaming machine profits to be handled by committees made up of community representatives. We envisage these being established on a regional and local basis and appointed rather than elected.

Summary

The proposed model requires:

- That all commercial (non-casino) gaming machine profits are allocated through community representative committees.
- That the overall accountability for the distribution of profits lie with the New Zealand Lottery Grants Board and involve:
 - o A national committee for evaluating national applications,
 - o Regional Committees for regional and large scale local applications,

¹ Commercial venues refers to what are known as class 4 machines and excludes casinos, chartered clubs and machines operated by charitable societies on non-commercial premises.

- o Local committees for small scale and frequent applications administered by local authorities.
- That local distribution is undertaken by three local committees, composed of community representatives, to allocate funds to the three areas of sport and recreation, arts and cultural activities, and social and community. To avoid unnecessary duplication we propose that these be:
 - o the existing Creative Communities Committees, (arts)
 - o the former Community Sports Fund committees (re-established for this purpose) sport/recreation,
 - o an additional local committee for the allocation of funds for social and community projects.²
- Regional committees would be appointed by electoral colleges formed to ensure representatives have a community mandate. Committees would be required to adopt funding distribution policies after community consultation.
- It is envisaged that membership of the local allocation committees would be selected on a similar model to that used to select the membership of the existing Creative Communities Scheme, drawn from community nominations and confirmed by councils in a public process. Councillors may not be a majority on these committees.

The problem with the status quo

Since 1977, it has been generally accepted that the profits derived from gambling expenditure should benefit the community, a principle incorporated in the current Bill. As gambling profits are public money, a fact recognised by the Select Committee, their collection and distribution should be subject to the same requirements for transparency and accountability as applies to other public money. Specifically, as this is public money intended to benefit New Zealand's communities, the standards should be broadly those applied to local government in its collection and expenditure of public money. This would include:

- Measures to ensure that distribution is undertaken in a fair and transparent way and following community consultation on the purposes of and priorities for distribution. This would require those responsible for distribution to publish the equivalent of a community plan with appropriate provision for public input in its development and for distributions to be governed by the terms of that community plan.

² We propose some flexibility within the framework to allow small localities to perhaps have a single committee able to allocate to all three areas.

- Publication of an annual report showing how distribution activity had complied with the community plan.
- The people themselves responsible for distribution were appointed or elected through a process that ensured that they were both fit for the purpose of managing distribution and properly representative.

Election may not be a suitable means of achieving this objective. Local Government New Zealand would suggest a process akin to that in the Local Government Act 2002 for the selection of directors or trustees of council-controlled organisations, but including a requirement that each regional committee was suitably representative.

The existing process for the distribution of commercial gaming machine profits is characterised by a substantial level of both recorded and anecdotal misuse. For example, recent examples of quid pro quo arrangements between beneficiaries and site operators has resulted in public concern about the fairness of the present system.

As the level of profits grows significantly the incentives for improper use of these funds similarly increases. Charitable societies own the machines, arrange leases with operators of pubs and bars and distribute the profits. Each charitable society has its own distribution policy that is different from other distribution policies. Our primary concerns include:

- In the case of smaller hotel-based trusts the proximity of those who make allocation decisions with the commercial owners/manager has led to a fear of collusion – and the possibility that grants will be used to promote business and patronage at the facility.
- There are no “conflict of interest” rules. Those allocating grants may legitimately be members of organisations applying for grants. This creates a perception of unfairness from the view of those applicants that are not so represented.
- Anonymity – the names and backgrounds of those making allocation decisions are seldom publicly known. Nor is the process by which they are appointed.
- Some trusts fail to provide information on the guidelines or criteria by which they intend to evaluate applications.
- There is strong anecdotal evidence to show that the public is not clear on how to access funds from gaming machine charities.
- Complexity has led to a lack of clarity, and issues of transparency and accountability. A common complaint has been the undue influence of gatekeepers (e.g. site operators) who provide applications and sometimes vet applications.

In addition to our concerns with the way in which the current allocation system works, we are also concerned about the manner in which the distribution of gaming profits has shifted from the public to the private sector without any clear policy discussion or rationale - in effect policy by default. NZ has had a history of gambling profits being distributed through publicly accountable bodies which meet two important criteria:

- They are bound by transparency and accountability provisions associated with public funding
- The membership of allocation committees is appointed by and answerable to the public through government or local government.

The funding allocated by the “private” gaming trusts now substantially exceeds the Lotteries Commission’s profits allocated by the LGB. In the 2002/03 year the LGB was allocated roughly \$100m to allocate. A decline from previous years so large that one fund, the community facilities fund, was closed down. Commercial casino gaming machine profits for the same year were approximately \$200m.

Figure 1: Gaming machine Expenditure

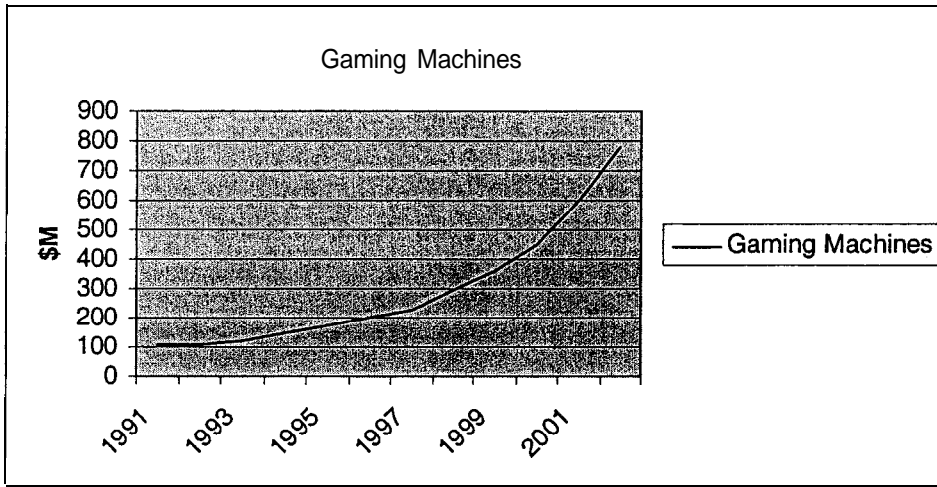
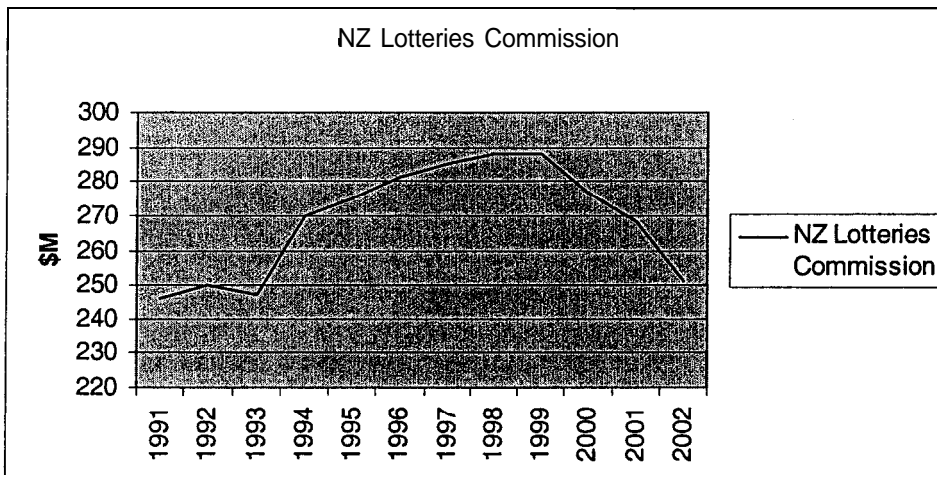


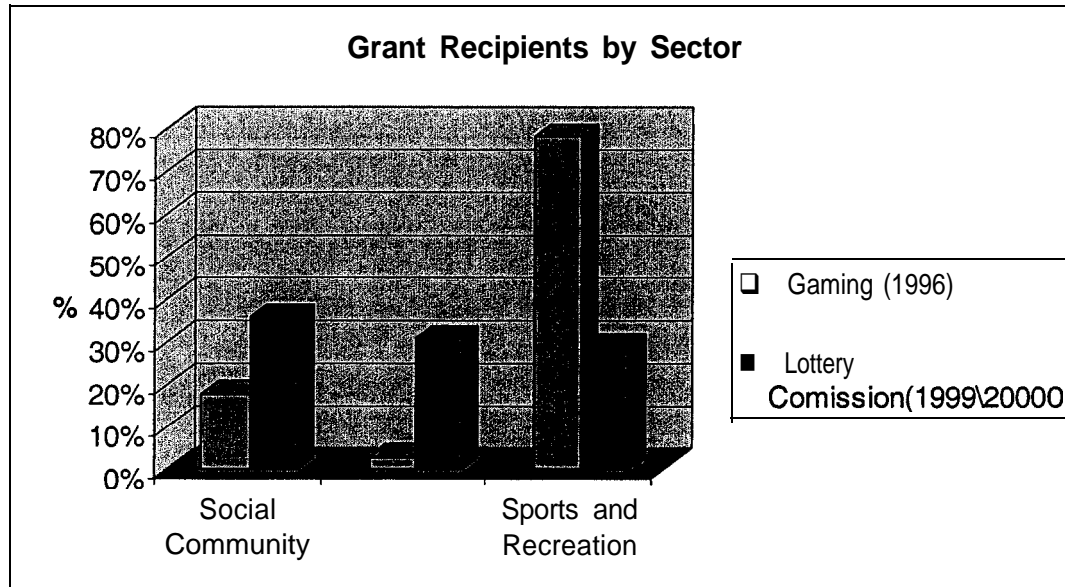
Figure 2: Lotteries Commission Expenditure



This change in the incidence of funding has also been reflected in a shift in the nature of the recipients of gaming funding, with proportionally more “gaming” funds going to sport and active recreations, a decline in the share going to social service organisations, and a significant drop in the share benefiting arts and cultural groups. The fact that the cultural sector, in particular, receives only a fraction of the available funds calls into question the ability of the industry to meet its statutory purpose which is “community benefit”.

It would appear that the framework by which the gaming machine profits are distributed suffers from a “systematic bias” that has indirectly resulted in parts of the community benefiting to a much larger degree than others.

Figure 3: Grant Recipients by Sector



Does the model proposed in the (Responsible) Gambling Bill resolve our concerns?

We do not believe the provisions in the Bill adequately address the concerns raised above. Nor will they guarantee that gaming profits will meet the “authorised purposes” required by the Bill. Our primary concern is that the distribution of what is essentially public funds is being handled by a network of private organisations not bound by appropriate accountability provisions for allocating public/community money is unchanged. This is a unique situation and one that Parliament should not perpetuate.

We acknowledge, however, that the Bill contains some checks on collection and distribution of gambling profits. In particular:

- increased auditing powers and electronic monitoring
- the requirement that successful and unsuccessful grants applications be published
- a requirement that people involved in operation or management of gaming machines not be involved in the decision-making process about the allocation of grants
- Already in place is a requirement that application forms be made more accessible, although evidence available indicates that compliance continues to be patchy.

Better auditing and the introduction of electronic monitoring will over time increase confidence in the operation of the industry and diminish opportunities for inappropriate behaviour. These are improvements that should be supported by people from both within and outside the gaming industry.

The publication of successful and unsuccessful applicants, however, is unlikely to have the impact that the Select Committee envisaged, primarily because there are no incentives on the trusts or the trustees to take public opinion into account – if trustees were elected or appointed to their positions with a public mandate then the publication strategy would be more likely to be effective. Few applicants, and virtually no one outside the “industry”, would have any idea of who the trustees making decisions about their application are. Relying on public scrutiny after-the-fact is clearly not the fairest and most open allocation and distribution process, and is contrary to current good practice. The distribution process should be fair and open and be seen to be fair and open.

While the requirement to create a separation between those who manage the machines and those who allocate grants is heading in the right direction, and may diminish the likelihood that grants will be used to promote custom at gaming establishments, we cannot see any way in which this requirement can ever be adequately monitored and implemented.

The nature of the regime proposed in the Bill has very high administration and transaction costs, both in terms of the accountability provisions placed on the gaming charities and the cost of funding a large number of officials to be employed by the Department of Internal Affairs to monitor and enforce the new regulations. This will result in less money going to communities. The proposal to distribute profits through the LGB structure with allocation by community committees removes most if not all the monitoring and compliance costs thus maximizing the level of community benefit.

Despite the improvements made by the Responsible Gambling Bill the grant allocation process remains non-transparent and unclear, criteria used to make grant decisions are largely unknown, trustees and those who make allocation decisions are not bound by any “conflict of interest” rules and the process occurs behind closed doors. Also, given the fact that certain sectors seem to benefit disproportionately it seems certain that there is a systemic bias in the distribution process that is contrary to the community’s interest.

We would not be making these criticisms if the trusts were distributing “private” money, that is money endowed by individuals or firms over which trusts would have a large degree of discretion in the same way that private foundations and philanthropic trusts operate. In this case, however, Parliament has given gaming trusts as a group an exclusive right to raise money and distribute it for purposes that are squarely in the public domain. The necessary consequence is that the distribution process should be subject to standards and processes appropriate for dealing with public monies

What would an alternative distribution system look like?

Managing “public” funds, or funds that have been collected with the authority of Parliament for distribution to activities that are intended to benefit the community, must be undertaken with a high degree of probity and openness. To achieve this we

recommend that any allocation system should be measured against the following principles.

Efficiency: The costs of administration should not be excessive. At the same time the system must be an effective one that is capable of delivering a timely service.

Clear and accessible: The public should be able to understand the system and be able to access it without the undue influence of gatekeepers. Application forms must be readily available and there must be public notification of the outcomes of distribution on an annual basis.

Transparency: The system should be open to public scrutiny and be administered by people who do not have vested interest in the outcomes of the distribution of the funds.

Fairness: Funds should be distributed fairly to a wide range of community groups. The present practice of favouring one voluntary sector at the expense of others should cease. In addition, both national and local voluntary organisations should be eligible for funding.

Beneficiaries: A wide range of community groups should be eligible for receiving funds from the profits of gambling machines, including community development, recreation & sport, community education, arts & culture, social services, and heritage.

Accountability: The system should be regulated and monitored by a public authority to ensure it is operated fairly and according to any conditions imposed.

Meets community needs: Funds should be targeted to meet priority needs for particular communities. Funders should undertake, by themselves or in collaboration with other agencies, research to identify priority needs.

Community based: Those responsible for making distribution decisions should have a public mandate. They should be publicly accountable and their distribution decisions should be made in accordance with a distribution policy that has itself been developed through a public process.

In addition to these principles there are some specific issues with regard to the distribution of commercial gaming machine profits. Mechanisms for the distribution of gaming machine profits will need also to fulfil the following requirements:

- Allocation mechanisms need to be able to meet the funding needs of national, regional and local organisations and groups.
- Funding mechanisms need to be able to allocate funds fairly across activity boundaries – arts, sport, social services etc.

- If possible, funding mechanisms should avoid duplicating existing systems and either complement or **utilize** them.
- Generally, funds should be distributed back to the communities from which they came.

In brief we are looking for a funding mechanism that while meeting a higher level of accountabilities than the status quo, can ensure that resources will flow to applicants at national, regional and local levels. In our view the best approach, which does not duplicate existing funding mechanisms, is to utilise the accountability frameworks provided by the Lottery Grants Board and territorial local authorities.

Choosing an alternative structure

This paper is predicated on the view that the existing framework for the distribution of commercial gaming profits should be replaced. After considering a range of alternatives we believe that there is only one option that meets the principles outlined above and avoids duplicating existing structures or the cost of establishing new ones. This, our favoured option, involves a combination of the Lottery Grants Board and local government. It is a view that is also reflected in public opinion.

Research undertaken by *Local Government New Zealand* in October 2002 to understand public opinion on the process of allocating and distributing non-casino gambling expenditure asked respondents to give their views on three approaches to allocating grants – the pokie charities, the LGB and community committees. It revealed that:

When given a choice between several options of distributing the profits from pokies was provided, around one half of respondents felt community representation to be the fairest and most open way of allocating and distributing grants, followed by the Lottery Grants Board (36%). Trusts, the current means of distribution, were poorly rated with the public as a fair and open means of allocating and distributing grants (12%).

The Lottery Grants Board has traditionally provided the mechanism for allocating gambling (lottery) funds. Its funds are allocated to national organisations, such as Creative New Zealand, through national distribution committees and also through a number of regional committees. Its operation is subject to the same accountability checks and balances as apply to government agencies e.g. audit and the ombudsman.,

Historically a proportion of lottery funds have been allocated at the local level by community based committees established and supported by territorial authorities. Until 2002 two schemes were in place, the Creative Communities scheme which allocated small grants to arts and cultural projects, and the Community Sports Fund, which in various forms has existed for more than 20 years. (Funding for the Community Sports Fund was recently withdrawn by SPARC.)

Both schemes operate on a similar basis in which committee members are appointed through a public process and funds are allocated according to priorities set by the two national agencies. Councils report annually on the operation of the schemes and both are subject to annual audit. Each council's role is to administer and promote the schemes, there cannot be any council involvement in the allocation decisions.

The key features of the model proposed are:

- The amalgamation of a number of national committees to reduce overheads and better deal with “cross boundary” applications.
- The establishment of regional distribution committees which would be able to fund “population” type applications, that is youth, elderly etc as well as “community facility” type applications of a reasonable scale.
- The re-establishment of the Community Sports Fund, administered by local authorities, to provide small-scale and local grants
- The establishment of a General Community Scheme, to provide small-scale local grants for community purposes, to sit alongside the Community Sports Fund. Also administered by local authorities.
- A topping up of funds allocated through the Creative Communities scheme, for arts and cultural projects, also supported by local authorities.

The need for a regional model

The existing LGB committee structure will need to be amended if it is to provide an effective mechanism for distributing the additional funds generated from the commercial gaming venues. We believe that a new structure will be required, which has fewer national committees, a full coverage of regional committees, and a mechanism for providing local funds through community committees administered by territorial authorities. (See Attachment.)

Appointing the Committees

Criticism of early proposals that gaming profits be allocated through the LGB drew from claims that it represented government capture and that funding would reflect government priorities. We believe these criticisms were ill founded, however if there is to be public confidence in this model then it must not only be “non-political” but also be seen to be “non-political”.

To ensure the “independence” of the regional distribution committees, we make two suggestions. One that each regional committee be required to adopt, after consultation, an annual “distribution policy”. Second, that committees be appointed by regional electoral colleges. For example:

- That an electoral college be set up in each region for the purpose of calling for nominations and appointing the regional committees. The electoral colleges would be drawn from existing community trusts operating in the region, the regional council, Iwi, regional sports trusts, councils of social services and a representative of the arts and cultural sector.
- That the electoral college call for nominations and on the basis of names received appoint a distribution committee which is “fit for purpose” rather than trying to select a committee that represents each sector.

The locality committees are perhaps the most critical part of the framework. Under our proposal these committees would operate within territorial authority boundaries (cities and districts) and would allocate small scale grants (small is relative to the size of the locality) through a process that is responsive to need.

Rather than create new structures we propose that:

- The Creative Communities Committees be utilised to make allocation decisions about arts and cultural applications.
- The Community Sports Fund committees be re-formed to deal with sports and ‘recreation grants.
- That a third committee be established to deal with general community applications of a similar scale.

Both Creative Communities scheme and the Community Sports Fund consist (or in the latter case consisted) of committees made up of community representatives and supported by local authorities that manage both administrative tasks and provide accountability and transparency.

Setting budgets for each committee

We recommend that a formula be developed, by regulation, which specifies the share of gaming profits that should be held for allocation to national projects and organisations. This could be determined by reference to existing allocation decisions. The remaining funds would also be divided by formula, taking into account population numbers, between regional and local committees.

At the national and regional level the division of funds between different activities – sport, social services arts etc – would reflect local priorities as identified in each committee’s distribution policy, and the number and nature of applications. Committees would be able to utilise the new community outcomes process facilitated by councils to set local and regional priorities.

At the local level a formula for distribution of funds between the three committees (or the three sectors of committees are amalgamated as might be appropriate in small districts) would be developed based on historic demand and local priorities, possibly based on the

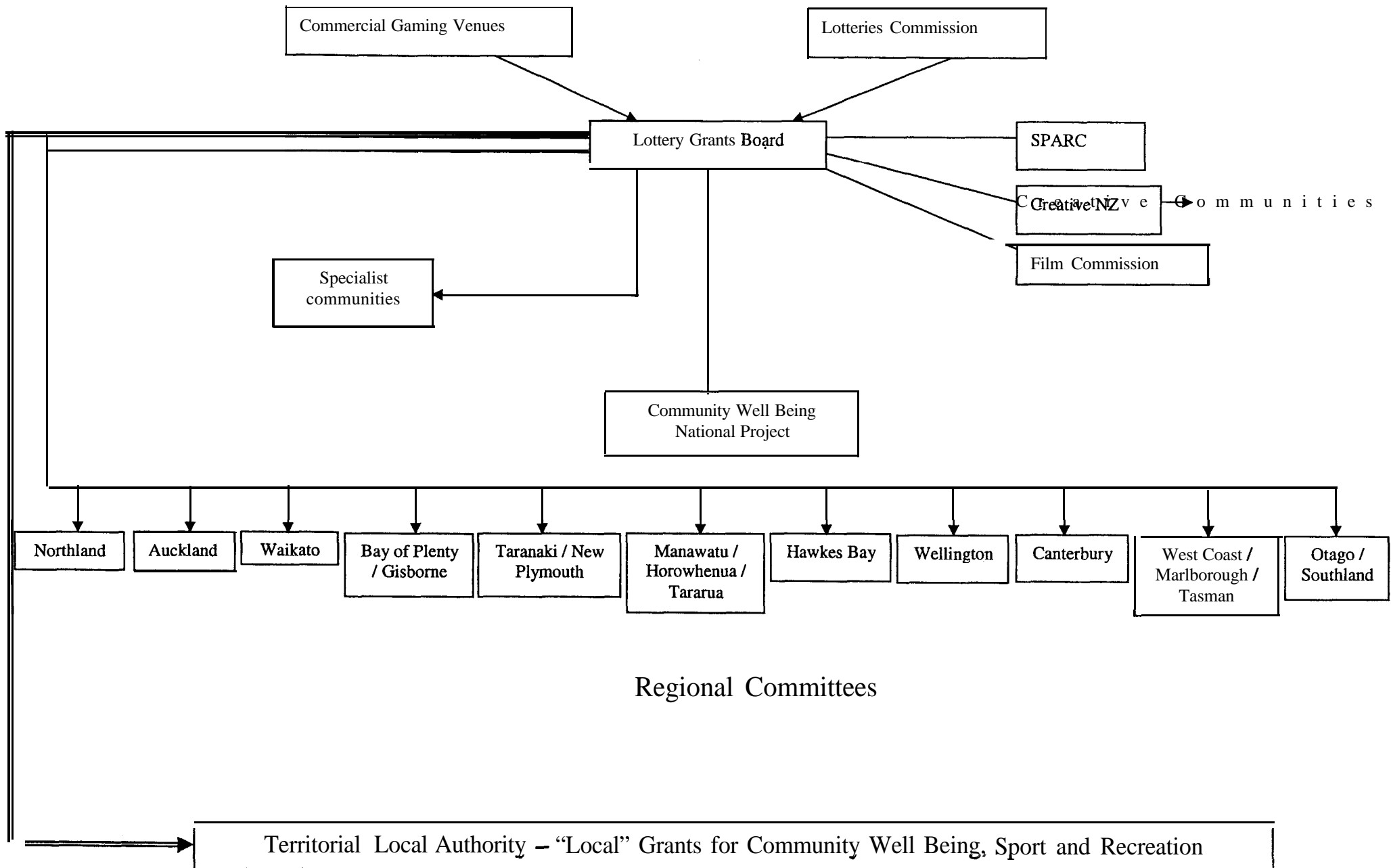
community outcomes process outlined in the Local Government Act 2002. As with Creative Communities and the Community Sports funds a standard amount will be available to assist with administration costs incurred.

Transition

A date for the transition to the new model should be set to allow for the new committees to be put in place and also take into account any contractual arrangements between existing funders and successful applicants.

Conclusion

Distributing commercial gaming machine profits through community accountable committees will not only ensure that the spirit as well as the letter of the Responsible Gaming Bill is being met, it will also provide the “pokie” trusts with a mechanism for distributing the profits generated by their machines that is untarnished and free of any suggestion that the funds are not being appropriately used.



Summary

The Responsible Gambling Bill

Why it is important to your organisation and what you need to know.

The Responsible Gambling Bill has recently been reported back to Parliament after consideration by the Government Administration Select Committee. The Bill seeks to establish a consistent framework for the regulation of gambling and gaming activities in New Zealand. The purposes of the Bill are admirable, and are a significant improvement on the status quo. Amongst its purposes are:

- Controlling the growth of gambling,
- Preventing and minimising harm caused by gambling,
- Ensuring that money from gambling benefits the community, and,
- Facilitating community involvement in decisions about the provision of gambling.

A framework to regulate gambling and gaming activity is well overdue and the Bill makes many improvements and deserves support. However, it falls short in two critical areas. These are the extent to which communities can influence the level of gaming in their towns and cities, and the processes by which gaming machine profits are allocated.

Local Government New Zealand and the Community Sector Roundtable, a consortium of national not for profit organisations, are seeking support to have these issues addressed before the Bill is enacted. Our concerns relate to provisions governing what are termed “class 4”, that is non-casino, gaming machines.

Class 4 gaming has experienced an exponential growth since the early 90’s and is recognised as a major cause of gambling related problems. The profits generated from class 4 gaming machines have also grown. We estimate that the level of profits for allocation in the 2002 year is likely to be close to \$200 million - almost twice the level allocated by the New Zealand Lottery Grants Board which has seen its income fall during the same period. The changes that we seek are:

Giving communities the right to decide the level of gaming in their areas

The Bill requires territorial authorities to adopt venue policies in consultation with their communities. However these policies are limited to licenses granted after October 2001. They have no retrospective effect. Under the Bill existing venues have the right to operate in perpetuity regardless of their location, as long as they operate lawfully. This applies even if they contravene the community’s venue policy, by for example, being located in a residential suburb. The right to operate in perpetuity also applies to **post-**

October 2001 licenses that have been approved, regardless of any future change in venue policy that might be inconsistent with their existing location.

It is very unusual for a licensing regime not to require licensees to go through a process of re-licensing after reasonable period of time. This occurs with liquor licences, gun licences and the rights to discharge waste under the Resource Management Act, for example. We seek from parliament an amendment to the (Responsible) Gambling Bill to require that venue licenses be granted for specific periods of time, for example 3 to 5 years, and that their renewal be subject to the local gaming venue policy. Only in this way will communities have a “meaningful” say about the level and nature of gaming as it affects them.

As drafted the Bill places councils in an invidious position. From our experience of working with communities it is clear that consultation will raise expectations that they will be able to have a meaningful role in determining the level of gaming within their towns and cities. The Bill does not deliver and it will be the local council left to deal with the consequences of community frustration and eventual disenchantment.

We demand that venues operating prior to October 2001 also fall within the **ambit** of the local authority venue policy, and that when their licences are renewed they be required to conform to the venue policy in place at that time. Only in this way will communities have an effective way of determining the level of gaming in their localities and fulfil the Bill’s promise of community empowerment.

Changes to the way in which gaming profits are allocated to community projects

We are equally concerned with the way in which the Bill addresses the processes for the distribution of gaming profits from commercial sites. Gaming profits are in effect “public” money. The Bill requires that they be allocated to “authorised purposes” which includes both “charitable purposes” and “non-commercial purposes that are beneficial to the whole or a significant section of the community”. This process has been characterised by a substantial level of both recorded and anecdotal misuse.

The Bill makes some improvements, by requiring that machine operators be excluded from the grant assessment and allocation process. However such separation is almost impossible to monitor and ultimately fails the test of accountability and transparency that we expect with the allocation of public funds. We are asking for a community based model for the allocation of gaming machine profits in which those making allocation decisions are representative of the community and are selected through an open process. It is also vital that the communities which create the “pokie” profits are those which receive the benefits of the allocated grants.

We believe that alternative models for the allocation of gaming profits should be considered and incorporated into the Bill before it is enacted. Such models must meet the test of community accountability, access and transparency - characteristics lacking in the present regime for the distribution of profits.

If local community organisations and councils are also concerned about these issues we recommend that you contact your local **MPs** as soon as possible and let them know.

We believe that the Bill will come back to parliament some time in March or April. If you want more information please contact Mike Reid at *Local Government New Zealand* email mike.reid@lgnz.co.nz