

Review Research Report

Psychoactive Substances Local Approved Products Policy

1 Purpose

To describe and discuss the review of the Psychoactive Substances Local Approved Products Policy (2014).

2 Context and Situation

Under section 69 of the Psychoactive Substance Act 2013, the Council's Psychoactive Substances Local Approved Products Policy 2014 (the Policy) must be reviewed every 5 years. The Policy is therefore overdue for review (October 2019). However as per section 69 of the Psychoactive Substance Act 2013 "*A local approved products policy does not cease to have effect because it is due for review or is being reviewed*". The Council needs to decide whether the Policy is the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.

2.1 Council's role relating to psychoactive substances

Psychoactive products approved by the Ministry of Health are a legal product. The regulation of retail premises selling psychoactive substances (including the location) is enforced by the NZ Police and the Ministry of Health. Licences are issued by the Psychoactive Substances Regulatory Authority (the 'Authority'). The Council has no role in issuing licenses or in enforcement. The Council cannot ban the sale of legally approved products.

Under sections 66 – 69 of the Psychoactive Substance Act 2013, the Council may have a policy relating to the sale of approved products in the Far North District. The policy may address the following matters:

- the location of premises from which approved products may be sold by reference to broad areas within the district
- the location from which approved products may be sold by reference to proximity to other premises from which approved products are sold within the district
- the location of premises from which approved products may be sold by reference to proximity to premises or facilities of a particular kind or kinds within the district (for example, kindergartens, early childhood centres, schools, places of worship, or other community facilities).

Under section 10 of the Local Government Act 2002, the purpose of local government is to "... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future". Psychoactive substances can cause harm to the wellbeing of communities through direct health effects on the user, but also indirectly by impacting the wellbeing of their families and the economy (increase in unemployment, increase in poverty). One way to prevent the future use of psychoactive substances is to denormalise drug use by preventing children and young people from being exposed to people using psychoactive substances.

3 Objectives

3.1 Purpose of review

To determine whether a policy is still the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.

3.2 Review objectives

- To define psychoactive substance related problems in the Far North District that are within Council's function to control.
- To identify if a policy is still the most appropriate way to address the regulation of psychoactive substances in the Far North District.
- To identify if the Policy meets current legislative requirements.

4 Problem Definition

4.1 Scope

In scope

Problems relating to the location from which approved products may be sold within Far North District.

Note: An approved product is defined as; a psychoactive product approved by the Authority under section 37 of the Psychoactive substance Act 2013.

Out of scope

The importation, manufacture, sale, supply, or possession of a psychoactive substance including which substances are approved products as this is regulated by the Psychoactive Substances Act 2013.

4.2 Purpose of current Policy

The Psychoactive Substances Act was introduced in 2013 and allows for the sale of legally approved psychoactive substances in New Zealand. The policy was developed in response to concerns raised, regarding the sale of psychoactive substances, from residents, community stakeholders and with advice from Police and Public Health.

The Policy sets a clear framework to be applied to all applications that the 'Psychoactive Substances Regulatory Authority' considers when granting licenses for premises that sell approved products in the Far North District.

The objectives of the Policy are to:

- Minimise the harm to the community caused by psychoactive substances by defining the permitted location of retail premises.
- Ensure that Council and the community have influence over the location of retail premises in the District.

Following a consultation process, the Policy was deemed to be the most appropriate way to address problems relating to the sale of approved psychoactive substances in the far North District.

The policy regulates the following:

- The location of retail premises from which approved products may be sold is restricted to locations within a commercial zone as designated in the District Plan
- Retail premises from which approved products may be sold are not permitted within 500 metres of another retail premises from which approved products may be sold
- All retail premises from which approved products may be sold are not permitted within 100 metres of a sensitive site existing at the time the licence application is made.

Note: The extensive list of sensitive sites can be found within the Policy.

4.3 Other problems relating to psychoactive substances not currently controlled or addressed by the Policy

The Policy addresses all the matters in which are a function of the Council to control under the Psychoactive Substances Act 2013.

Currently, there are no approved products available for sale, therefore there are no additional problems relating to psychoactive substances.

5 Review of Policy

Currently, there are no approved products. No licence applications for retailing, manufacturing, or wholesaling products have been received by the Psychoactive Substances Regulatory Authority. Licences have been issued for research and import (for research purposes).

One of the main barriers to enabling an approved product is a 2014 amendment to the Act which prohibited considering evidence from testing on animals to approve a product. Therefore, the Psychoactive Substances Regulatory Authority cannot approve or licence any product until an appropriate alternative to animal testing is available. Alternatives being developed internationally include in vitro methods, using human cells and tissues, and advanced computer modelling techniques.

Applications for approved products can occur at any time.

It is not possible to review the effectiveness of the Policy as it has not had an opportunity to be put into effect.

However, the Policy adheres to best practice evidence in that the Policy

- Restricts access to our most vulnerable communities
 - easier access leads to increased use and harm
 - increased visualisation leads to increased uptake and normalisation
- Prevents clustering of retail premises. Clustering can lead to
 - an increase in other harm related activities in that area
 - a change of character of that particular area
 - increased harm due to price competition
 - people exhibiting antisocial behaviours congregating
- Restricts access to commercial zones which prevent harm by
 - having increased visibility with higher foot and vehicle traffic
 - having increased CCTV cameras
 - higher police and security presence
 - restricts availability in residential neighbourhoods.

Section 69 of Psychoactive Substances Act 2013 enables a policy to restrict retail premises at a broader scale and tied to a district plan zone such as a commercial zone. The operative district plan does not categorise commercial zones such as urban centres, local centres or convenience and service areas found within residential areas. Consequently, a retail premise could locate within a residential area, and be contrary to the intent of the policy.

Most commercial zones within residential areas are occupied by dairies, petrol stations and small supermarkets. While there is ability for retail premises to establish within residential areas, restrictions on place of sale of psychoactive substances under section 52 of Psychoactive Substances Act 2013 prohibit psychoactive substances from being sold at a dairy, supermarket, liquor store or petrol station. To restrict retail premises to urban or local centres, the District Plan would need to differentiate commercial zones.

The Policy meets current legislative requirements and there are no foreseeable amendments to legislation.

The Policy states that “the General Manager Environmental Management will monitor the implementation of this policy” (clause 2). This job description has since been restructured into the General Manager District Services. However, under the Local Government Act 2002, schedule 7, clause 32 (3), the Chief Executive can delegate the functions of the General Manager Environmental Management in regard to this policy to the General Manager

District Services. Therefore, in order to continue with the provisions of the policy, delegations will need to be in place.

It is not best practice to include job titles in a policy. If during future reviews, further amendments are required, the component referring to the General Manager Environmental Management should be removed.

6 Discussion and Conclusion

The Policy has been developed and adopted in order to reduce community harm from the sale of psychoactive substances in the Far North District.

As there have been no approved products to date it is not possible to review the effectiveness of the policy.

However, it is possible for a product to be approved at any time.

The policy adheres to best practise evidence.

Therefore, the Policy is still the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.