

SOUTH WAIRARAPA DISTRICT COUNCIL

23 APRIL 2014

AGENDA ITEM C5

PSYCHOACTIVE SUBSTANCES ACT – CONSIDERATION OF SUBMISSIONS AND ADOPTION OF LOCAL APPROVED PRODUCTS POLICY

Purpose of Report

To enable Councillors to consider submissions lodged and make any consequential changes to the draft Local Approved Products Policy (LAPP) before adopting it.

Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *After consideration of the submissions and the informal comment received, Council resolve to adopt the LAPP, subject to the following changes and amendments being incorporated into the policy;*
 - (i) insert new e. as follows "are not permitted within 50 metres of an existing off licenced liquor premise"*
 - (ii) existing e. to become f.*
 - (iii) existing f. to become g.*
 - (vi) existing e. (new f.) change the word "meters" to "metres"*
 - (v) existing f. (new g.) change the words "...proposed in 1 to 4 above....." to "proposed in a.to e. above,"*
 - (vi) in section 4. Interpretation change the definition of a **Fully Manned Police Station** to "a Police Station that is covered 24 hours, 7 days a week by rostered staff".*

1. Executive Summary

This report outlines the submissions and comment received when the Council's draft Local Approved Products Policy (LAPP) was publicly notified for comment. Four submissions were received, all of which support the general form and content of the draft policy. Some submitters also suggest incorporating additional controls into the policy and these suggestions are outlined in the following sections of this report. One informal comment was

received relating to the definition of a fully manned police station in order to clarify it. Some minor drafting corrections are also required to be made.

2. Background

2.1 At its February 2014 meeting Council considered a report on the development of a LAPP for South Wairarapa. This report set out the reasoning that would underpin any draft policy as follows;

- minimising the harm to at risk groups within the community caused by psychoactive substances by limiting the location and density of the retailers of approved products
- ensuring that Council and the community have some influence over the location and density of retailers of approved products in the District
- minimising the potential for adverse effects from the sale of psychoactive substances in residential areas, near sensitive facilities and locations
- minimising the exposure and potential for harm to at risk groups from the sale of psychoactive substances
- allowing outlets only where there is a high degree of safety and security

2.2 In consequence of these broad statements of policy the following “rules” on the location of premises proposing to sell psychoactive substances were derived;

Premises must be:

- within a Commercial Zone as defined in the combined District Plan

Premises must not be:

- within 100 metres of a kindergarten, early childhood centre, primary school, library, community centre, public reserve / sportsground / playground or place of worship
- within 500 metres of a secondary school
- within 100 metres of an existing premise holding a licence to sell approved products
- within 100 metres of a residentially zoned site as defined in the combined District Plan

The rules then provided for an exemption to the first four provisions where the site for the proposed retail outlet was to be within 50 metres of a Police Station.

2.3 Council subsequently resolved to adopt the draft Policy and Statement of Proposal for the purposes of consultation with the public under the provisions of Section 83 (special consultative procedure) of the Local Government Act.

2.4 Advertisements were placed in newspapers in accord with the requirements of Section 83 on the 5th February 2014 and 5th March 2014.

In addition specific written notice was given to some 28 organisations along with an invite to make a submission. All relevant documents were also made available on Council's website. The draft was open for submissions for a period of approximately 6 weeks (a 4 weeks minimum is required under Section 83). Copies of all relevant documents were available at the 3 libraries and main Council offices.

2.5 At closing date (14 March 2014) only 4 submissions had been received along with an informal comment designed to correct one of the interpretive definitions in the policy. All submissions were supporting the policy. One submitter wished to be heard in person but this is no longer the case. The written submissions should therefore be considered by Council today, before any final decision to adopt the policy can be made.

3. Discussion

3.1 Submissions

All submissions lodged comply with the provisions of the Local Government Act and are therefore valid. These are attached for Councillors information.

3.1.1. Helen Morgan, Masterton

This submission supports the draft LAPP in its entirety and supports any move to limit the sale and access to psychoactive substances to those under 18 years of age.

The submitter does not wish to be heard in support of her submission. No request is made for a change to the policy.

3.1.2. John Traill, Featherston

This submission supports the draft LAPP in its entirety and fully supports and commends Council for developing a policy. The submitter states his support for the purpose and objectives while understanding that Council cannot restrict persons over 18 years of age.

The submitter does not wish to be heard in support of his submission. No request is made for a change to the policy.

3.1.3. Featherston Community Board

The Board supports the draft policy. The Board in particular supports the requirement for any premises retailing these products to be within a Commercial zone and the requirement that they be 500 meters away from a skateboard park.

This submitter initially wished to be heard in support of their written submission, however advice has since been received that this is no longer the case. No request is made for a change to the policy

3.1.4. Medical Officer of Health, Wellington

The Medical Officer of Health commends *Council* on *its* swift response to the development of the draft LAPP and supports the purpose and intent and particularly the specific objectives. .

The submitter does not wish to be heard in support of the submission.

The following requests for additions to the policy are proposed a) impose a requirement to have a buffer zone between liquor off-licence premises and any retail premises for the sale of approved psychoactive substances and b) a restriction on the number of outlets that supply approved products.

Other suggestions for changes are made in the submission but it is my view that the policy already effectively deals with those matters. e.g. a CBD location

3.1.5. Comment by NZ Police

The Wairarapa Area Commander has advised that the definition contained in the interpretation section of the draft policy relating to a fully manned police station should be adjusted to accurately reflect actual practice.

The suggested change in wording is "a police station that is covered 24 hours, 7 days a week by rostered staff".

3.1.6. Discussion of suggested changes

The policy could be extended to include a requirement for a separation distance between premises selling liquor (off licenced) and approved products. This would be enabled by Sections 66(2) (c) and 68(c) of the Act and is reasonably consistent with other provisions contained in Council's draft LAPP. If Council is of a mind to do so, then a 50 metre distance might be appropriate to apply. This is recommended.

The suggestion to place a cap on the total number of premises in the district cannot be actioned under the Act, as this is excluded from a LAPP's scope. This was made clear to potential submitters in Clause 1.6 of the Statement of Proposal which was publicly notified along with the draft LAPP. This is not supported.

The suggested change to the wording of the definition of a police station is recommended. It should substitute the current definition.

4. Conclusion

The LAPP has been developed to give effect to the provisions of the Psychoactive Substances Act and the expectations of the community.

It has been notified for consultation purposes and the submissions received all support the draft with only relatively minor suggested changes.

It is recommended that Council adopt the Policy with the two changes and minor amendments as set out in the draft resolution above.

5. Appendices

Appendix 1 – Submissions

Appendix 2 – Policy as Notified (with recommended changes in italic)

Contact Officer: Murray Buchanan, Group Manager, Planning and Environment

Appendix 1 – Submissions

First Name: Helen

Last Name: Morgan

Street address: 24A Third Street

City and postcode: Masterton 5810

Telephone: 06 3770753

Email: helen.morgan@wairarapa.dhb.org.nz Mobile phone: 027 2255564 Do you support, oppose, or are you neutral toward the proposal? support Do you wish to be heard? no

Submission: I support the council's proposed LAPP Policy 2014, and would support any move, that limits the sale and access to any psychoactive substances to those under 18 years of age. I work in Community Mental Health and have witnessed the harm these substances can have on the brain, especially the developing brain. As the council is probably aware, there is sound scientific evidence of the long term harm they cause.

Submitted on Tuesday, 11 March 2014 - 11:52am Submitted by anonymous user: [131.203.240.18]
Submitted values are:

First Name: Featherston Community Board

Last Name: Featherston Community Board

Street address: South Wairarapa District Council City and postcode: 5711

Telephone: 063089843

Email: jadetui@xtra.co.nz

Mobile phone: 0272481364

Do you support, oppose, or are you neutral toward the proposal? support Do you wish to be heard?
yes

Submission:

Dear Submission Committee

Thank you for this opportunity to submit on South Wairarapa's Draft Local Approved Products Policy that relates to the Psychoactive Substances Act 2013.

The Featherston Community Board supports the draft policy.

We strongly agree with section 3.a that the location of premises licensed for the sale of approved products under the Psychoactive Substances Act 2013 must be located within a commercial zone as defined in the Combined Wairarapa District Plan.

We also strongly agree with section 3.c that the location of licensed premises for the sale of approved products under the Psychoactive Substances Act 2013 should be at least 500 metres of a secondary school or skateboard park.

The skateboard park is the prime locations in our town where youth of different ages often mix and hang out. Restricting the sale of psychoactive substances within 500 metres of these areas is the right thing to do. 500 metres is a reasonable distance, in part because the youth in these areas are often on scooters, bikes or skateboards and can travel distances quickly.

Therefore we would not want the 500 metres to be reduced.

We appreciate the opportunity to speak to this submission.

Yours sincerely

The Featherston Community Board

From: REGISTER, Brent (Reg) [mailto:Brent.Register@police.govt.nz]
Sent: Friday, 7 March 2014 3:04 p.m.
To: Murray Buchanan - Group Manager Planning and Environment
Subject: RE: South Wairarapa proposed LAPP (for Psychoactive Substances)

Murray,

The wording needs to be changed to state "A Police station that is covered 24 hours, seven days a week by rostered staff"

That will cover the wording for each of the five Wairarapa Stations and especially your three in South Wairarapa.

Reg.

Brent Register

Inspector

Area Commander - Wairarapa

Masterton Police Station | 21 Church Street | P O Box 443 | Masterton 5810

Ext: 47901 | **Phone:** +06 3700301 | **Mobile** +0211909538 | **Fax** +06 370 5950 | brent.register@police.govt.nz

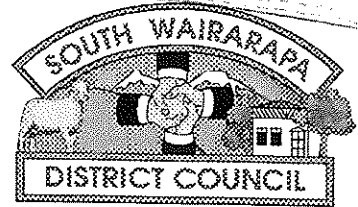
"A Safer Wairarapa Together"

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**SOUTH WAIRARAPA DISTRICT COUNCIL
SUBMISSION FORM**



Draft Local Approved Products Policy 2014

To: Draft Local Approved Products Policy
South Wairarapa District Council
PO Box 6
Martinborough 5741

Name: John Traill
Address: 56 Lyon Street
Featherstar.

Phone: (day) 06 3089 123 Mobile: 027 2477661
Email: byondus@extra.co.nz

Submission:

It will assist Council when considering your submission if you identify the part(s) in the Draft Local Approved Products Policy (LAPP) document that you support or disagree with. If you have an alternate suggestion to what has been proposed in the Draft Policy, outline the suggestion.

(Please note Council has no powers to ban the sale of these products. To assist with developing your submission you may wish to refer to the Statement of Proposal and Report to Council dated 29 January 2014).

To lodge a submission you may:

- a) Use the online form at www.swdc.govt.nz/sumission-form-draft-lapp-2014, or
- b) Deliver a written submission to: **SWDC Council Office at 19 Kitchener Street Martinborough**, or
- c) Fax a written submission to: **(06) 306 9373**, or
- d) E-mail a written submission to: **feedback@swdc.govt.nz** or
- e) Post a written submission to: **Draft LAPP Submission, SWDC, P.O. Box 6 Martinborough 5741.**

All submissions must reach Council no later than **4.30pm on Friday 14 March 2014.**

Note:

- Submissions will not be returned.
- Under the Privacy Act 1993, submissions are available for viewing by the public.
- The hearing and deliberation on these submissions will be open to the public.

Do you wish to be heard in respect of your submission? ~~Yes~~ / No

Comment	<u>I Fully support (and commend) South Wairarapa District Council's 'Draft Local Approved Product's Policy' in its purpose and objectives</u> <u>I recognise the age restriction (above 18 or over) but on the sale of psychoactive substances but also see the reality of young persons (12 to 18 year olds) being able to gain access to the above substances. In my role</u>
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14 March 2014

Murray Buchanan
Group Manager
Planning and Environment
South Wairarapa District Council
PO Box 6
Martinborough

Re: Submission on Draft Local Approved Products Policy (LAPP) for Psychoactive Substances

Dear Murray

Thank you for the opportunity to provide a written submission on the Draft LAPP.

Regional Public Health (RPH) serves the greater Wellington region, through three District Health Boards (DHBs): Capital and Coast, Hutt Valley and Wairarapa. As a service, RPH forms part of the Hutt Valley DHB. It is important to note that RPH has staff members situated and working in the Wairarapa overseeing the needs of Wairarapa communities.

RPH works with communities to make it a healthier, safer place to live. We promote good health, prevent disease, and improve the quality of life for our population, with a particular focus on children, Māori and working with primary care organisations. Our staff includes a range of occupations such as medical officers of health, public health advisors, health protection officers, public health nurses, and public health analysts.

RPH commends South Wairarapa District Council (SWDC) on their swift response to the development of the *Draft Local Approved Products Policy for Psychoactive Substances*. This will alleviate some of the concerns expressed by the South Wairarapa community at the meeting at Kuranui College in 2013 about psychoactive substances and the problems that have been experiencing within school and community environments.

The sale and use of psychoactive substances in our community is a concern, particularly amongst health organisations, community providers, parents and the police in regards to adverse reactions. The National Poisons Centre has reported that increased availability of synthetic cannabinoids has resulted in more calls from doctors and ambulance officers reporting breathing problems, paranoia and recurring psychotic episodes. New Zealand doctors have also reported concerns over the increase in clients in their emergency

departments suffering adverse effects¹. The negative health and social effects of these products requires closer monitoring and retailer compliance within the legislation.

RPH supports the following points as stated within your policy:

- The purpose and intent of the draft policy is based on the Psychoactive Substances Act 2013.
- The objectives of the policy which includes:
 - minimising harm to 'at risk' groups
 - influence over density of retailers and approved products
 - minimising potential adverse effects within specific locations
 - minimising the exposure and potential for harm
 - permitting outlets in a safe and secure environment
- Location of premises from which approved psychoactive products can be sold as highlighted in sections 3a, b, c, d, e, and f of the policy overview document.

We wish to make the following comment on section 3:

3. Location of premises from which approved psychoactive products can be sold

RPH **recommends** that SWDC impose a buffer zone between liquor off license premises and psychoactive substance licensed premises. Local information received from health professionals and police indicate that individuals, especially youth, often combine alcohol and psychoactive substances which can have detrimental health effects. A buffer zone will reduce the exposure of psychoactive substances to young people and those people vulnerable to the harmful effects of these products.

Additional Comments

Protecting the people most at risk of harm from psychoactive substances can be minimised by reducing access to psychoactive substance retailers near sensitive sites.

Although Wairarapa have no approved interim licences, we support a restriction on the number of outlets that supply approved products. Having fewer outlets allows retailers to better track and report users who may be experiencing harmful effects, and enables enforcement officers to more closely monitor retail activity.

RPH promotes the de-normalisation of the use of mind altering substances. For this reason it is preferable to restrict the proximity of psychoactive substance outlets away from areas that are attractive to youth, vulnerable and at risk communities. These areas include fast food outlets, licensed premises, bus stops, recreational facilities (including skate parks).

¹ <https://www.drugfoundation.org.nz/book/export/html/2191>

Due to the potential harmful nature of psychoactive substances, RPH supports a policy that states they should only be sold from premises that allow for public scrutiny and surveillance. Outlets should only be located in areas in the Central Business District that have good sightlines, regular foot traffic and other safety features, such as CCTV cameras. Having a high level of public surveillance reduces the risk of harm to people using psychoactive substances, and illegal activities associated with the sale of psychoactive substances.

This submission is supported by guidelines from the Ministry of Health's National Drug Policy for New Zealand which includes supply control, demand reduction and problem limitation strategies.

RPH can provide further advice or clarification on any of the points raised in our written submission.

RPH **does not** wish to be heard at any oral submissions in regards to this policy.

The contact person for this submission is

Nicky Poona
Public Health Advisor
Email: nicky.poona@wairarapa.dhb.org.nz
Phone: 06 3779133

Regards



Dr Stephen Palmer
Medical Officer of Health



Peter Gush
Service Manager

**Appendix 2 – Policy as
Notified (with recommended
changes in italic)**

South Wairarapa District Council

Psychoactive Substances Act 2013

DRAFT LOCAL APPROVED PRODUCTS POLICY

1. PURPOSE OF THE POLICY

1.1 The South Wairarapa Council is proposing to have a policy relating to the location and density of points of sale for products approved under the Psychoactive Substances Act 2013. The policy covers points of sale within the South Wairarapa District Council territorial authority area. Sections 66 to 69 of the Psychoactive Substances Act 2013 set out the matters that may be contained in the policy.

2. OBJECTIVES OF THE POLICY

2.1 To minimise the harm to at risk groups within the community caused by psychoactive substances by limiting the location and density of the retailers of approved products.

2.2 To ensure that Council and the community have some influence over the location and density of retailers of approved products in the District.

2.3 To minimise the potential for adverse effects from the sale of psychoactive substances in residential areas, near sensitive facilities and locations.

2.4 To minimise the exposure and potential for harm to risk groups from the sale of psychoactive substances.

2.5 To allow outlets only where there is a high degree of safety and security.

3. LOCATION OF PREMISES FROM WHICH APPROVED PSYCHOACTIVE PRODUCTS CAN BE SOLD

Premises licensed for the sale of approved products under the Psychoactive Substances Act 2013 are allowed subject to all of the following criteria;

a. must be located within a commercial zone as defined in the Combined Wairarapa District Plan.

b. are not permitted within 100 metres of a kindergarten, early childhood centre, primary school, library, movie theatre, community centre, public reserve / sportsground / playground or place of worship.

c. are not permitted within 500 metres of a secondary school or skateboard park.

d. are not permitted within 100 metres of an existing premise holding a licence (interim or full) to sell approved products.

e. are not permitted within 50 metres of an existing off licenced liquor premise

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f.e. are not permitted within 100 *metres* of a residentially zoned site as defined in the Wairarapa Combined District Plan.

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g.f. may, regardless of the limits proposed in *a.4* to *e.4* above, locate on a site where it is within 50 metres of a fully manned police station.

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4. INTERPRETATION

LAPP – Local Approved Products Policy pursuant to Sections 66 – 69 of the Psychoactive Substances Act 2013.

Fully manned police station – a police facility that is *manned covered* 24 hours a day, 7 days a week *by rostered staff*.

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Wairarapa Combined District Plan – Wairarapa Combined District Plan Volumes 1 and 2 Operative on 25 May 2011.

PSRA – Psychoactive Substances Regulatory Authority pursuant to Section 10 of the Psychoactive Substances Act 2013.

SWDC – South Wairarapa District Council

LTP – Long Term Plan

Approved Product – a psychoactive product approved by the Authority under Section 37 of the Psychoactive Substances Act 2013

Psychoactive substance – a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect (by any means) in an individual who uses the psychoactive substance.