

19 March 2014

The Manager
Psychoactive Substances Regulatory Authority
Ministry of Health
PO Box 5013
Wellington 6145

psychoactives@moh.govt.nz

Dear Sir/Madam,

PSYCHOACTIVE SUBSTANCES REGULATIONS CONSULTATION DOCUMENT

1. This is a submission on the Psychoactive Substances Regulations Consultation Document from the Dunedin City Council, PO Box 5045, Moray Place, Dunedin, 9058.
2. The Dunedin City Council is responsible for enabling democratic local decision-making and action by and on behalf of the Dunedin community and for meeting current and future needs of the Dunedin community for performance of regulatory functions in a way that is most cost-effective for household and businesses.
3. The Dunedin City Council thanks the Ministry for the opportunity to comment on the Psychoactive Substances Regulations Consultation Document but is disappointed with the short period for consultation on the regulations. The timeframe made it challenging for the Dunedin City Council to fully consider the proposals and formally endorse a submission. As a result, although the submission has been informally considered by a majority of Dunedin City Councillors and signed by the Chair of the Council's Planning and Regulatory Committee, it has not been formally endorsed by the Dunedin City Council. The submission is subject to retrospective approval from the Planning and Regulatory Committee which next meets on 1 April.
4. The Dunedin City Council is also disappointed that the local government sector was not consulted during development of the Psychoactive Substances Act 2013 (the Act) given the responsibility that the sector has in developing Local Approved Product Policies (LAPPs) and the significant concerns that many communities have regarding psychoactive substances.
5. The Dunedin City Council supports, in general, the submission made by Local Government New Zealand.
6. The Dunedin City Council is currently developing a LAPP to establish where our community wants the sale of psychoactive substances prohibited. The Dunedin City Council aims to have formally consulted our community and adopted a LAPP by July.
7. The Act does not specify consistency with the relevant LAPP as a matter the Psychoactive Substances Regulatory Authority (the Authority) can consider when assessing applications for retail licenses. This means that the Authority will either not assess whether an application is consistent with the relevant LAPP, or if it does, that any licence application declined on the basis of inconsistency with the relevant LAPP could be challenged in court. This will mean

Dunedin City's LAPP will be unenforceable and that the wishes of our community could be overridden.

8. The Act, however, enables regulations to specify information and documents that must accompany applications for licenses and allows the Authority to refuse applications if those requirements are not met. The consultation document proposes to require applications to be accompanied by evidence of compliance with the relevant LAPP. The Dunedin City Council supports this proposal as it would mean that the wishes of our community, as established in our LAPP, would be reflected in the decisions on retail license applications made by the Authority.
9. The Dunedin City Council requests that the regulations specify that evidence of compliance be a certificate or consent from the relevant territorial authority. This would ensure that the Authority can be confident of the evidence provided and that communities can be confident that applications are being adequately assessed against their LAPP. This would be a similar process to that required when applying for consent under the Gambling Act 2003 to establish new Class 4 gambling venues. Territorial authorities should also be specifically permitted to charge applicants a fee to cover the cost of assessing their application and issuing certificates.
10. The Dunedin City Council supports the proposal for a generic LAPP to apply where communities have not developed and adopted their own. A generic LAPP would provide a degree of regulation for communities that lack the resources to develop and adopt their own policy and would provide a starting point for councils that choose to develop their own LAPPs. The generic policy should be developed with input from the local government sector and the public should be given the opportunity to comment on a draft generic policy.
11. The Dunedin City Council supports a general condition on all retail licenses, to require licenses to be displayed in licensed retail premises. This will provide the public with assurance that a retail venue has been licensed to operate by the Authority and complies with the Act and the relevant LAPP.
12. Thank you for the opportunity to submit on the proposed regulations under the Psychoactive Substances Act 2013. The Dunedin City Council looks forward to working with Psychoactive Substances Regulatory Authority to ensure the wishes of the Dunedin community (as identified through upcoming consultation on Dunedin's LAPP) are considered when the Authority issues retail licenses.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'David Benson-Pope', with a long horizontal flourish extending to the right.

Councillor David Benson-Pope
Chair, Planning and Regulatory Committee