

Notice of Meeting:

I hereby give notice that an ordinary meeting of the Regulatory Subcommittee will be held on:

Date: Thursday 25 March 2021
Time: 1.30 pm
Venue: Edinburgh Room, Municipal Chambers, The Octagon, Dunedin

Sandy Graham
Chief Executive Officer

Regulatory Subcommittee
REVIEW OF LEGAL HIGH RETAIL LOCATION POLICY
PUBLIC AGENDA

MEMBERSHIP

Chairperson	Cr Andrew Whiley	
Members	Cr Marie Laufiso	Cr Steve Walker
Senior Officer	Simon Pickford, General Manager Community Services	
Governance Support Officer	Lynne Adamson	

Lynne Adamson
Governance Support Officer

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Note: Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

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1 APOLOGIES

At the close of the agenda no apologies had been received.

2 CONFIRMATION OF AGENDA

Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

DECLARATION OF INTEREST

EXECUTIVE SUMMARY

1. Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.
2. Elected members are reminded to update their register of interests as soon as practicable, including amending the register at this meeting if necessary.

RECOMMENDATIONS

That the Committee:

- a) **Notes/Amends** if necessary the Elected Members' Interest Register attached as Attachment A; and
- b) **Confirms/Amends** the proposed management plan for Elected Members' Interests.

Attachments

	Title	Page
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Regulatory Subcommittee - Legal Highs Policy Hearing - Councillor Register of Interest - Current as at 15 March 2021				
Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Andrew Whiley	Owner/Operator	Whiley Golf Inc and New Zealand Golf Travel Ltd	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Director/Shareholder 22 May 2017	Estate of Grace Limited	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Trustee	Japek (Family Trust) - Property Ownership - Dunedin	Duties to Trust may conflict with duties of Council Office.	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Otago Golf Club	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Dunedin South Rotary Club	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Board Member	New Zealand Professional Golfers Assn	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Institute of Directors	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	National Party	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Chairman	Volunteering Otago	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Otaru Sister City Society (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Public Art Gallery Society (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Grow Dunedin Partnership (Council appointment - alternate)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	NZ Masters Games Trust Board (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Deputy Chair	Dunedin Community House Executive Committee	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Puketai Residential Centre Liaison Committee (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago Peninsula Community Board (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
Marie Laufiso	Property Owner	Residential Property	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Trustee	Community Building Trust - Trust Owner of Property 111 Moray Place	Duty to Trust may conflict with duties of Council Office	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Board Member	Otago Mental Health Trust	Potential grants applicant which would result in pecuniary interest. Duty to Trust may conflict with duties of Council Office	Do not participate in consideration of grants applications. If the meeting is in confidential, to leave the room.
	Trustee	Brockville Community Support Trust	Potential grants recipient	Withdraw from discussion and leave the table. If in confidential leave the room. Seek advice prior to the meeting.

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	Trustee	Corso Ōtepoti Dunedin Trust	Potential grants recipient	Withdraw from discussion and leave the table. If in confidential leave the room. Seek advice prior to the meeting.
	Member	Dunedin Manufacturing Holdings Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	National Secretary	P.A.C.I.F.I.C.A Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Dunedin Branch Treasurer	P.A.C.I.F.I.C.A Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Dunedin Branch delegate to Arai Te Uru Marae Council	P.A.C.I.F.I.C.A Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Green Party of Aotearoa New Zealand	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Age Concern (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Abrahamic Interfaith Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Refugee Steering Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago Settlers Association (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Fair Trading Committee (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Deputy Chair	Grants Subcommittee	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Social Well Being Advisory Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
Steve Walker	Chairperson	Dunedin Wildlife Hospital Trust	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Chairperson	West Harbour Beautification Trust	Potential conflict WHBT work with Parks and Reserves to co-ordinate volunteer activities	Withdrawal from all West Harbour Beautification Trust/ DCC discussions involving this relationship.
	Member	Orokonui Ecosanctuary	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Member	Port Chalmers Golf Club	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Keep New Zealand Beautiful	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Member	Society of Beer Advocates	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	New Zealand Labour Party	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Port Chalmers Historical Society	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Owner	Residential Property - Dunedin	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Shareholder	Various publicly listed companies	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	NZ Sea Lion Trust	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	Member	Dunedin Edinburgh Sister City Society (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Connecting Dunedin (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Te Ao Turoa Partnership (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Keep Dunedin Beautiful (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Tertiary Precinct Planning Group (Council appointment - alternate)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	West Harbour Community Board (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.

PART A REPORTS

RESULTS OF CONSULTATION ON REVIEW OF LEGAL HIGH RETAIL LOCATION POLICY

Department: Customer and Regulatory Services

EXECUTIVE SUMMARY

- 1 This report presents a summary of the six submissions received on the review of the Legal High Retail Location Policy (the Policy) to the Regulatory Subcommittee (the Subcommittee).
- 2 Of the six submissions, the majority (83%) agree overall with the existing policy (see Attachment A for the Policy). One submitter wishes to be heard.

RECOMMENDATIONS

That the Committee:

- a) **Considers** the submissions on the review of the Legal High Retail Location Policy
- b) **Makes** recommendations to the Council on the Legal High Retail Location Policy.

BACKGROUND

- 3 The Psychoactive Substances Act 2013 (the Act) allows local authorities to have a policy specifying where, in their districts, legal highs can be sold. An approved product was termed a 'legal high'. It does not permit a council to ban legal highs outright or to have a policy which is so restrictive as to effectively ban their sale.
- 4 In 2015, the Council chose to adopt a Legal High Retail Location Policy to help minimise the risk of harm posed by the presence of legal highs in the city.
- 5 The purpose of the Policy is threefold:
 - To minimise the harm caused to the community resulting from the use of psychoactive substances by limiting the locations from which the 'legal high' may be sold; and
 - To minimise the exposure and potential harm of legal highs to vulnerable members of the community; and

- To ensure the community has influence over the location of the premises licensed to sell the products, so much as legally possible.
- 6 The Policy restricts legal high retailers to the Dunedin central city area provided they are more than 100m away from 'sensitive sites' like schools, churches, Dunedin Public Library, Dunedin Hospital, mental health facilities and justice premises.
 - 7 In October 2020, the Council approved the review and retention of the Legal High Retail Location Policy 2015 and approved the statement of proposal for consultation.

DISCUSSION

Community engagement

- 8 The special consultative procedure was used for the Policy review, as required by the Act. Formal consultation took place from 11 November – 11 December 2020.
- 9 Consultation included information on the Dunedin City Council (DCC) website, in the Otago Daily Times noticeboard, as well as targeted emails to stakeholders such as the Police, Southern District Health Board, Māori and Pacifica groups and to the Dunedin People's Panel.

Results of consultation

- 10 Six submissions were received and, of these, three were from organisations (Police, Restorative Justice Otago and Spooks Vintage Art) and three were from individuals. James Buckner from Spooks Vintage Art wishes to be heard.

General support

- 11 The submission form asked: *Overall, do you agree with the Legal High Retail Location Policy?* Most (83%) agreed with the Policy with one submitter (17%) disagreeing.

Retail locations

- 12 The submission form asked: *Do you agree with the current policy that restricts legal high retailers to the Dunedin central city area provided they are more than 100 m away from 'sensitive sites' like schools, churches, Dunedin Public Library, Dunedin Hospital, mental health facilities and justice premises? (refer to maps on pages 3&4 of the Policy).*
- 13 All submitters agreed with this question.

Sensitive sites

- 14 The submission form asked: *Are the 'sensitive sites' defined effectively? Would you add or remove any? (See map on page 3 of the Policy).*
- 15 Most submitters (83%) answered 'Yes' to this question with one submitter (17%) answering 'No'.
- 16 The Police submission suggested adding the area outside the Police Station around the bus hub as, with the introduction of the bus hub, there are anecdotally more school aged and young people in this area. Restorative Justice Otago suggest adding parks and open spaces such as the Octagon.

- 17 Note that section 52 of the Act prohibits the sale of approved products from any vehicle or street cart.

General comments

- 18 General comments included restricting the sale of legal highs as strongly as possible.

OPTIONS

- 19 There are no options to this report as the purpose is to present a summary of submissions.

NEXT STEPS

- 20 Next steps are for the Subcommittee to consider consultation results, hear the submitter and make recommendations to the Council regarding the Legal High Retail Location Policy.

Signatories

Author:	Anne Gray - Policy Analyst Kevin Mechen - Secretary, District Licensing Committee
Authoriser:	Paul Henderson - Acting Group Manager Customer and Regulatory Services Simon Pickford - General Manager Community Services

Attachments

	Title	Page
⬇A	Legal High Retail Location Policy 2015	16

SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This decision enables democratic local decision making and action by, and on behalf of communities.
 This decision promotes the social well-being of communities in the present and for the future.
 This decision promotes the economic well-being of communities in the present and for the future.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic Development Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Arts and Culture Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Waters Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Spatial Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks and Recreation Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other strategic projects/policies/plans	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

This summary report for consideration has no impact on the strategic framework, however a Legal High Retail Location Policy has potential to contribute to the safe and healthy people priority of the Social Wellbeing Strategy, compelling destination priority of the Economic Development Strategy and liveable city priority of the Spatial Plan.

Māori Impact Statement

Māori organisations were identified as a potential interest group and were advised of the review and invited to submit.

Sustainability

There are no specific implications for sustainability.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

There are no implications for these documents.

Financial considerations

There are no financial implications.

Significance

This report is considered low in terms of the Council's Significance and Engagement Policy. However, this assessment is based on the absence of currently approved products (legal highs). If products were approved, then there would likely be higher community interest and therefore higher significance.

Engagement – external

The special consultative procedure was used for the Policy review and this included advising key stakeholders of the review and inviting them to submit.

Engagement - internal

There has been no internal engagement with this report.

SUMMARY OF CONSIDERATIONS

Risks: Legal / Health and Safety etc.

There are no identified risks.

Conflict of Interest

There is no known conflict of interest.

Community Boards

There are no specific implications for Community Boards.



LEGAL HIGH RETAIL LOCATION POLICY 2015
(Adopted 27 October 2015)

1 Introduction

This is a Local Approved Products Policy adopted by the Dunedin City Council under sections 66 - 69 of the Psychoactive Substances Act 2013.

The Psychoactive Substances Act 2013 (the Act) was introduced to regulate the availability of psychoactive substances (commonly known as legal highs, party pills or synthetic cannabis) in New Zealand to protect the health of, and minimise harm to, individuals who use the substances.

The Ministry of Health acknowledges the substances are harmful but that this harm is to be controlled by regulating and licensing psychoactive substances that "*should pose no more than a low risk of harm to individuals who use it*".

The Act requires premises selling approved products to be licensed and any person wishing to sell a new psychoactive substance must apply to the Psychoactive Substances Regulatory Authority to have the substance approved.

Councils have a very limited role in the regulation of psychoactive substances. The only legal power the Dunedin City Council has is to regulate where legal highs can be sold within its district by the development of this policy. The Council does not have the power to prohibit the sale of approved products or to have a policy that is so restrictive as to be a prohibition in everything but name.

This Legal High Retail Location Policy sets out where the sale of legal highs (psychoactive substances approved by the Authority) may take place in the district.

The Act **only** allows a policy to contain information regarding:

- (a) The location of premises from which the approved products may be sold by reference to broad areas within the district;
- (b) The location from which approved products may be sold with reference to proximity to other premises from which approved products are sold within the district;
- (c) The location of premises from which approved products may be sold by reference to proximity to premises or facilities of a particular kind within the district (e.g. kindergartens, early childhood centres, schools, places of worship, or other community facilities).

Section 52 of the Act prohibits the sale of approved products from dairies, convenience stores, grocery stores and supermarkets, any premises selling automotive fuels or that carries out servicing of vehicles and premises licensed to sell alcohol. Approved products must be sold from a permanent structure so tents, vehicles, mobile stores, etc., cannot be used as a place of sale.

2 Policy Definitions

For the purpose of this Legal High Retail Location Policy, the terms used in this policy have the same meaning as set out in the Psychoactive Substances Act 2013, unless otherwise defined below:

Approved Location – means the area described in Schedule 1 and which is marked 'approved location'.



Approved Product (or Legal High) – means a psychoactive substance approved by the Authority pursuant to section 37 of the Psychoactive Substances Act 2013.

Authority – means the Psychoactive Substances Regulatory Authority administered by the Ministry of Health.

Psychoactive substance – has the same meaning as set out in section 9 of the Psychoactive Substances Act 2013.

Retailer – means a person engaged in any business that includes the sale of 'approved products'.

Retail premises – means a premises licensed by the Authority to sell 'approved products'.

Sensitive Site – is defined as:

- i) Any kindergarten, early childhood centre or school;
- ii) Any place of worship;
- iii) A library;
- iv) Any playground or skate park;
- v) Any hospital including mental health facility;
- vi) Any premises occupied by the Ministry of Justice or Ministry of Social Development;
- vii) Any area within 50m of the intersection of View Street and Moray Place.

3 Purpose of Legal High Retail Location Policy

- 3.1 To minimise the harm caused to the community resulting from the use of psychoactive substances by limiting the locations from which the 'legal high' may be sold.
- 3.2 To minimise the exposure and potential harm of legal highs to vulnerable members of the community
- 3.3 To ensure the community has influence over the location of the premises licensed to sell the products, in so far as legally possible.

4 Policy Guidelines

- 4.1 The location of retail premises from which approved products may be sold is restricted by this policy to an approved location identified in Schedule 1.
- 4.2 The Legal High Retail Location Policy does not limit the number of retail premises provided the following criteria are met:
 - (a) retail premises are **not** located within 100 m of the nearest legal boundary of any 'sensitive site'; and
 - (b) retail premises are **not** located within 100 m of the legal boundary of any other retail premises.

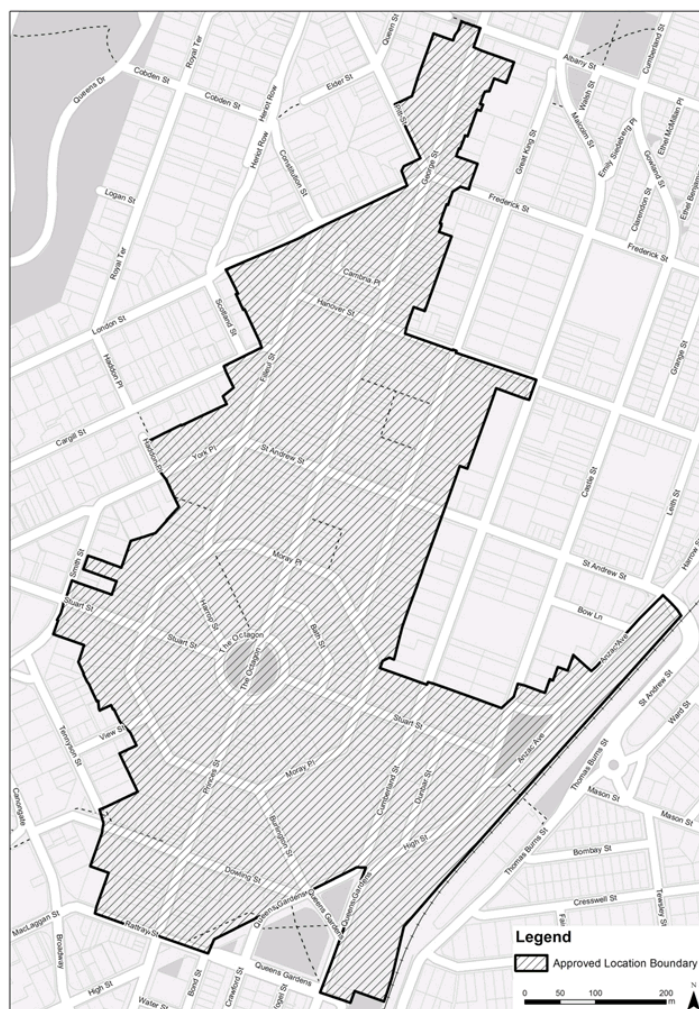
5 Policy Review

- 5.1 This policy will be reviewed within three years of adoption and every five years thereafter.
- 5.2 The Legal High Retail Location Policy does not cease to have effect when it is undergoing the review process.



6 Schedule

SCHEDULE 1 – APPROVED LOCATION BOUNDARY





SENSITIVE SITE BUFFER ZONES AT THE DATE OF POLICY ADOPTION
(27 October 2015)

NOTE: This map is not part of the Legal High Retail Location Policy 2015

