



**BEFORE THE AUCKLAND COUNCIL**

**IN THE MATTER** of the Psychoactive  
Substances Act 2013

**AND**

**IN THE MATTER** of Auckland Council Local  
Approved Products Policy  
(‘LAPP’)

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**SUBMISSION ON BEHALF OF PARNELL INC**

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## **MAY IT PLEASE THE COMMITTEE:**

### **(1) INTRODUCTION**

1. This Submission is made on behalf of the Parnell Inc, which is Parnell's local business association and business improvement district.
2. The objective of the Association is to ensure a great Parnell experience for shoppers and businesses alike. Previously known as Parnell Mainstreet, Parnell Inc. currently represents over 500 businesses along Parnell Road and Parnell Rise. The Association is currently in the process of doing a Boundary Expansion so it is able to represent and support all businesses in the Parnell area. It will then include 3 business nodes in Parnell - Parnell Rise and Parnell Rd, St Georges Bay Ave and Carlaw Park.

### **(2) BACKGROUND**

3. The Psychoactive Substances Act 2013 (the 'Act') sets a regulatory framework for the manufacture and sale of psychoactive substances.
4. Sections 66 to 69 of the Act establish the regime for the development of a Local Approved Products Policy ('LAPP'). These sections of the Act were introduced at the Parliamentary Select Committee stage, following submissions made by local authorities.<sup>1</sup>
5. Of note is the section of the Report from the Select Committee on the Psychoactive Substances Bill on LAPPs:<sup>2</sup>

"Despite advertising restrictions to limit advertising to the inside of retail premises and reduce visibility of the products in communities, we are concerned that retail outlets might be situated near schools or in other places considered inappropriate by the local community. We therefore recommend making provision for local community input on decisions as to the location of outlets, including a requirement to have regard to their density, by inserting clauses 61A, 61B, and 61C."

6. As stated, Parliament's concern was the 'visibility' of the premises selling these products from sensitive facilities in the local community.
7. Of particular note is 68 of the Act, which is set out below:

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<sup>1</sup> See, for example, Submission by the Manurewa Action Team to the Health Select Committee on the Psychoactive Substances Bill. <http://www.parliament.nz/resource/0001580415>

<sup>2</sup> Psychoactive Substances Bill (Government Bill) as reported from the Health Committee. <http://www.parliament.nz/resource/0001693197>

## 68 Content of local approved products policy

A local approved products policy may include policies on 1 or more of the following matters:

- (a) the location of premises from which approved products may be sold by reference to broad areas within the district;
- (b) 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;
- (c) 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).

8. Accordingly, LAPPs may include policies on 1 or more of the following matters:

(a) the location of premises from which approved products may be sold by reference to broad areas within the district;

(b) 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;

(c) 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).

9. Of some concern is that the Auckland Council LAPP has not closely followed the provisions set out in section 68(c) of the Act and has instead taken a different approach in its interpretation of section 68.

10. The Auckland Council LAPP seeks to prevent the sale of approved psychoactive substances in the following areas in Auckland:

- a. high deprivation areas as defined by the Ministry of Health's Deprivation Index score of 8, 9 or 10 indicating areas that fall in the bottom 30% of deprivation scores;
- b. neighbourhood centers as defined by the draft Unitary Plan;
- c. within 500m of a residential mental health or addiction treatment center;
- d. small areas identified as restricted areas due to only being partially covered by the census high deprivation areas and being in a high deprivation area; and
- e. areas of residential high deprivation in the city centre.

11. As noted above, in our view, Parliament's concern arose from the 'visibility' of the premises selling these products from sensitive facilities in the local community.

12. The Parliamentary Select Committee said that despite advertising restrictions that it was able to enact, to reduce the visibility of the products in communities, Parliament empowered councils through LAPPs to limit the location of premises from which products may be sold by reference to facilities such as kindergartens, early childhood centres, schools, places of worship, or other

community facilities). In our view, Parliament's concern was the visibility of these premises from kindergartens, early childhood centres, schools, places of worship, or other community facilities.

13. Parliament did not mention, when enacting these sections, that it intended the policies in LAPPs to limit the availability of these products to potential customers. As a consequence, we have some doubt that the approach taken by Auckland Council is in accordance with the Act.
14. Despite Parliament explicitly mentioning kindergartens, early childhood centres, places of worship, and other community facilities, the Auckland LAPP does not identify these facilities.
15. Parnell Inc believes that in taking this approach, Auckland Council appears to have misinterpreted the Act.

### **(3) SENSITIVE SITES IN PARNELL**

16. A selection from the Auckland Council Central LAPP map showing Parnell is shown below.



17. Currently two sites are identified on the map. These are:

- ACG Parnell College (2 Titoki Street and 39 George Street, Parnell)
- Parnell District School (48 St Stephen's Ave, Parnell)

18. Having regard to the approach taken by Auckland Council, Parnell Inc submits that the Housing New Zealand state housing on Heather Street and near Fraser Park in Parnell is an area of high density social housing - similar to that in the City Centre. In our submission, the City Centre zone should be extended to include this area of high density social housing in Parnell if Auckland Council decides to continue with its approach. Our local crime stats reveal that much of the crime experienced in Parnell emanates from these apartments, so while it may not be formally classified as an area of high deprivation, it certainly has the characteristics of such.
19. However, having regard to the approach we believe has been set out in the Act, in our submission the following sensitive sites should be identified and included in the Parnell section of the LAPP with appropriate buffers of 200m:
- a. *Kindergarten* (12 Alberon Place)
  - b. *Places of Worship* (Holy Trinity (Cnr Parnell Road and St Stephens Avenue) and the Selwyn Chapel (St Stephens Avenue))
  - c. *Place of Worship* (Knox Presbyterian Church, Birdwood Crescent)
  - d. *Place of Worship* (Catholic Church of St John the Baptist (244 Parnell Road))
  - e. *Community Facility* (Plunket Room, 192 Parnell Road)
  - f. *Community Facility* (545 Parnell Road (Jubilee Building) – which has a number of ‘kiddies programmes’, day care, and early childhood programmes) (see [www.parnell.org.nz](http://www.parnell.org.nz))
  - g. *Neighbourhood Centre* (cnr of Avon Street & Gladstone Road)
20. Finally, as an aside, the establishment of a City Centre zone has peculiar effects for retail outlets previously selling psychoactive substances on Karangahape Road, as some find they will now be prohibited from doing so under the proposed LAPP because they fall within the Auckland Girl’s Grammar School prohibition zone, while others will find themselves permitted to sell these products because they are inside the City Centre zone.
21. Parnell Inc asks to be heard in any hearings of submissions.

By and on behalf of Parnell Inc



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