



I hereby give notice that an ordinary meeting of the Hearings Committee will be held on:

Date: Tuesday, 4 November 2014
Time: 1.30pm
Meeting Room: Committee Meeting Room
Venue: Civic 15
1 Greys Avenue
Auckland

Hearings Committee

OPEN AGENDA

MEMBERSHIP

Chairperson	Cr Linda Cooper, JP
Deputy Chairperson	Cr Penny Webster
Members	Cr Anae Arthur Anae Cr Chris Darby Cr Calum Penrose Mr David Taipari Cr Wayne Walker Mr Glenn Wilcox
Ex-officio	Mayor Len Brown, JP Deputy Mayor Penny Hulse

(Quorum 3 members)

Louis Dalzell
Democracy Advisor

29 October 2014

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TERMS OF REFERENCE

The Hearings Committee will have responsibility for:

- Decision making (including through a hearings process) under the Resource Management Act 1991 and related legislation;
- Hearing and determining objections under the Dog Control Act 1996;
- Decision making under the Sale and Supply of Alcohol Act 2012
- Hearing and determining matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002. This delegation cannot be sub-delegated;
- Hearing and determining matters arising under bylaws, including applications for dispensation from compliance with the requirements of bylaws;
- Receiving recommendations from officers and appointing independent hearings commissioners to a pool of commissioners who will be available to make decisions on matters as directed by the Hearings Committee;
- Receiving recommendations from officers and deciding who should make a decision on any particular matter including who should sit as hearings commissioners in any particular hearing;
- Monitoring the performance of decision makers including responding to complaints made about decision makers;
- Where decisions are appealed or where the Hearings Committee decides that the Council itself should appeal a decision, directing the conduct of any such appeals; and
- Adopting a policy or policies and making any necessary sub-delegations relating to any of the above areas of responsibility to provide guidance and transparency to those involved.

Not all decisions under the Resource Management Act 1991 and other enactments require a hearing to be held and the term “decision making” is used to encompass a range of decision making processes including through a hearing. “Decision making” includes, but is not limited to, decisions in relation to applications for resource consent, plan changes, notices of requirement, objections, existing use right certificates and certificates of compliance and also includes all necessary related decision making.

In adopting a policy or policies and making any sub-delegations, the Hearings Committee must ensure that it retains oversight of decision making under the Resource Management Act 1991 and that it provides for Councillors to be involved in decision making in appropriate circumstances.

For the avoidance of doubt, these delegations confirm the existing delegations (contained in the Chief Executive’s Delegations Register) to hearings commissioners and staff relating to decision making under the RMA and other enactments mentioned below but limits those delegations by requiring them to be exercised as directed by the Hearings Committee.

Relevant legislation includes but is not limited to:

Resource Management Act 1991;	Fencing of Swimming Pools Act 1987;
Building Act 2004;	Gambling Act 2003;
Local Government Act 2002;	Sale of Liquor Act 1989;
Local Government Act 1974;	Sale and Supply of Alcohol Act 2012
Local Government (Auckland Council Act) 2009;	Health Act 1956;
Local Government (Auckland Transitional Provisions) Act 2010;	Biosecurity Act 1993;
Dog Control Act 1996;	Related Regulations; and
	Council Bylaws.

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1 Apologies

At the close of the agenda apologies for absence have been received from Member G Wilcox and Deputy Mayor PA Hulse.

2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

At the close of the agenda no requests for declarations of interest had been received.

3 Confirmation of Minutes

That the Hearings Committee:

- a) confirm the ordinary minutes of its meeting, held on Tuesday, 14 October 2014, including the confidential section, as a true and correct record.

4 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

5 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
 - (i) The reason why the item is not on the agenda; and
 - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

6 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

Appointment of a Hearings Panel to hear submissions on the draft Auckland Council Local Approved Product Policy

File No.: CP2014/23788

Purpose

1. To appoint a hearings panel to hear submissions on the Auckland Council's draft Local Approved Product Policy and to deliberate and make recommendations to the Regional Strategy and Policy Committee.

Executive summary

2. Auckland Council is developing a Local Approved Product Policy (LAPP), in accordance with the Psychoactive Substances Act 2013 (the Act). The Act empowers local authorities to make rules setting out where approved psychoactive products may be sold. Once adopted, the LAPP will provide these rules for Auckland. The Act requires public consultation on the LAPP to be conducted through a special consultative procedure.
3. The Regional Strategy and Policy Committee approved a draft Local Approved Product Policy for public consultation on 9 October 2014. The special consultative procedure commenced in late October, with the period for submissions running for one month.
4. A hearings panel will consider the submissions and make any recommendations to amend the LAPP to the Regional Strategy and Policy Committee.
5. Hearings would be scheduled for February 2015.
6. Staff estimate that hearing submissions will take up to 5 days, including one day for local boards to present their views, with another day needed for the hearings panel to deliberate on the submissions.

Recommendations

That the Hearings Committee:

- a) appoint a hearings panel of up to five members, including up to four Councillors and one member of the Independent Māori Statutory Board, to hear submissions on the Auckland Council's draft Local Approved Product Policy, deliberate and make recommendations to the Regional Strategy and Policy Committee
- b) delegate authority to the Chairperson of the Hearings Committee to make replacement appointments in the event that any member of the hearings panel is unavailable
- c) note the following in relation to local boards:
 - i) that throughout November and December 2014 council staff will gather local boards feedback on the draft Local Approved Product Policy and that this feedback will be provided to the hearings panel for its consideration
 - ii) that staff will schedule a day for local boards to present their feedback directly to the hearings panel
- d) note that council staff will gather feedback from Māori on the draft Local Approved Product Policy via hui throughout November and December 2014 and this feedback will be provided to the hearings panel for its consideration.

Comments

Background

7. Auckland Council is developing a Local Approved Product Policy (LAPP), in accordance with the Psychoactive Substances Act 2013 (the Act). The Act empowers local authorities to make rules setting out where approved psychoactive products may be sold. The Psychoactive Substance Regulatory Authority will take these rules into account when considering licence applications.

Requirement for Special Consultative Procedure and Hearings Panel

8. The Act requires that the LAPP use the special consultative procedure under the Local Government Act 2002 to consult with the public. The special consultative procedure will run for one month from the end of October 2014. A hearings panel will then consider the submissions and make recommendations to the Regional Strategy and Policy Committee.
9. Hearings will be scheduled for February 2015 and the Hearings Panel will report back to the Regional Strategy and Policy Committee in March or April 2015. The committee will then be asked to adopt the final policy. Unlike the alcohol policy there is no separate process for submitters to appeal the decision of the committee so the Local Approved Product Policy will come into force immediately upon adoption.

Hearings format

10. Staff propose that the hearings be conducted using a combination of the following:
- Traditional style hearings.
 - 'Forum' style hearings, which would be similar to workshops and would be based on the model used as part of the Long Term Plan and Annual Plan consultation processes.
 - Local board feedback sessions, where by all local boards are invited to provide feedback directly to the Hearings Panel.

Anticipated volume of submissions and number of hearing days

11. It is estimated that five days will be needed to hear submissions and another day for deliberations. These estimates are based on the figures below that show an overview of the submissions received during consultation on similar projects and the significant level of community interest in the topic.

Consultation	Written submissions received		Number of oral submissions heard	Number of hearing days (excl. deliberations)
	Total	Pro Forma		
Auckland Council draft Local Alcohol Policy	2,688	896	115	7
Auckland Council draft Gambling Venue Policies	10,374	10,028	61	4

Consideration

Local board views and implications

12. Throughout the development of the draft LAPP, staff have regularly engaged with, and considered the views and preferences of local boards. Following the approval of the Statement of Proposal, staff will attend workshops with interested local boards, and report to all local boards for their feedback via formal resolution. This feedback will be included in the report to the Hearings Panel along with submissions that are received from stakeholders and the public.

Māori impact statement

Engagement with Māori

13. The consultation process with Māori has been developed in partnership with Māori agencies. A workshop has been undertaken with representatives from Hapai Te Hauora Tapui, an agency representing Māori health providers in the Auckland region, to provide initial feedback. Council staff are working with the Independent Māori Statutory Board (IMSB), Te Waka Angamua and Hapai Te Hauora Tapui to ensure effective engagement with Māori. The initial work has centred on ensuring information is available to iwi and maata waka. The first of these hui was held in mid-October.
14. The ongoing engagement with Māori will take place over two months to ensure there is sufficient time to conduct hui that are representative of all Māori in Auckland. Feedback from these hui will be presented to the hearings panel. Maori also have the ability to lodge submissions on the draft policy.

Attachments

There are no attachments for this report.

Signatories

Authors	Callum Thorpe - Principal Policy Analyst
Authorisers	Penny Pirrit - Regional & Local Planning Manager

Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Hearings Committee:

- a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Resource Consent Appeals: Status Report 4 November 2014

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, to enable the local authority to undertake without prejudice negotiations of appeals that are before the Environment Court..	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.