

Smoke-Free Outdoor Areas Policy

People

2.1 Our people have the opportunity for a happy and healthy lifestyle

Adoption Date:	22 July 2020
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Policy Owner:	Manager Environment and Sustainability
Next review date:	22 July 2024
File Reference:	5450/28.1
Related Policies/Legislation:	<i>Smoke-free Environment Act 2000</i> <i>Smoke-free Environment Regulation 2016</i> <i>Liquor Act 2007</i> <i>Local Government Act 1993</i> <i>Local Government (General) Regulation 2005</i> <i>Roads Act 1993</i>
Related Documents:	Smoke-Free Workplace General Manager Practice Note Smoke-Free Workplace Procedure
Superseded Policy/GM Practice Note:	Smoke-Free Outdoor Areas Policy v.3



Objectives

The objectives of this policy are to:

- improve the public amenity of Council property;
- raise community awareness of the health issues associated with smoking;
- provide community leadership in protecting the health and wellbeing of the community; and
- minimise cigarette butt litter on Council land.

Policy Statement

Council is committed to minimising the harmful effects of tobacco and e-cigarette smoking (including passive smoking) on community health, local amenity and the natural environment.

This Policy extends NSW smoke-free legislation and prohibits smoking in additional areas. Further information on the NSW legislative framework is provided in the following sections.

Smoke-free outdoor public places

Smoking is prohibited at, or within 10 metres of any Council-owned public building and associated structures, such as enclosed verandahs, awnings and covered walkways. Signs are in place to support this Policy. Designated smoking areas for Council officials are outlined in the Smoke-free Workplace Procedure.

Under the *Smoke-free Environment Act 2000*, smoking is also prohibited:

- in an enclosed public area;
- within 10 metres of children's play equipment;
- at public swimming pools;
- in spectator areas at sports grounds or other recreational areas when being used for an organised sporting event;
- at public transport stops and platforms;
- in commercial outdoor dining areas; and
- within four metres of a pedestrian entrance or exit to a public building.


Council has installed signs to support the State Government legislation in certain areas such as playgrounds, pools and parks.

Smoke-free clauses in leases, licences and user agreements for all Council sporting grounds and community facilities reflect the requirements of the State Government legislation and this Policy. These clauses must be complied with.

Smoke-free commercial outdoor dining areas

Smoking is prohibited at or within Council-managed outdoor dining areas. This includes areas that are used for the consumption of beverages only and areas that are used for the consumption of food.

Commercial outdoor dining areas are required to comply with all requirements of the *Smoke-free Environment Act 2000* and *Smoke-free Environment Regulation 2016*, as well as any smoke-free clauses in licence agreements that have been established under the *Roads Act 1993*, for example, footways.



Signs are required for commercial outdoor dining areas under the *Smoke-free Environment Regulation 2016*. These signs must be prominently displayed on the premises and are available free of charge from NSW Health. Signs are not mandatory, although strongly recommended, for pedestrian access points to licenced venues, restaurants and cafés.

Smoke-free clauses in outdoor dining licences reflect the requirements of State Government legislation and this Policy. These clauses must be complied with.

Enforcement

NSW Health is responsible for enforcing the *NSW Smoke-Free Environment Act 2000*. Suspected breaches of outdoor smoking bans can be reported online at [Smoke-free laws](#).

Enforcement of this Policy is supported primarily by persuasion and self-policing by the community rather than punitive enforcement by Council. Where a member of the public continually fails to comply with the terms of public notices erected by Council, Council may serve a caution or penalty notice under the *Local Government Act 1993* and *Local Government (General) Regulation 2005*. For Council-managed outdoor dining areas, Council may issue a written warning or terminate a licence where a breach of a licence condition repeatedly occurs.

Scope

This Policy applies to:

- Council-owned buildings and Council-managed licenced outdoor dining areas;
- all Council officials; and
- members of the general public.

Definitions

commercial outdoor dining areas and **smoke-free areas - outdoor public places** have the same meaning as in sections 4A and 6A respectively of the *Smoke-free Environment Act 2000*.

Council-managed outdoor dining areas include those areas as defined above and areas that are used for the consumption of beverages only.

Council official includes Councillors, members of Council staff, administrators, Council committee members (including members of a wholly advisory committee), delegates of Council, Council advisers and Council contractors.

smoking has the same meaning as the term **smoke** in section 4 of the *Smoke-free Environment Act 2000* and therefore includes using, consuming, holding or otherwise having control over a tobacco product, non-tobacco smoking product or e-cigarette that is generating (whether or not by burning) smoke or an aerosol or vapour.

Responsibilities

Responsibilities for implementing this policy are shared between Councillors, Executive and other Council official as follows:

**Councillors:**

Councillors shall:

- lead the community in their understanding of and compliance with this Policy; and
- lead the community in their understanding of and compliance with State Government smoke-free

Executive:

The Executive shall:

- implement this Policy; and
- lead Council staff in their understanding of and compliance with this Policy.

Manager Environment and Sustainability:

The Manager Environment and Sustainability shall:

- implement this Policy;
- provide guidance to Councillors and staff in relation to this Policy; and
- ensure the timely review of this Policy.

Council officials:

Council officials shall:

- comply with this Policy;
- undertake enforcement of this Policy where authorised to do so; and
- apply this Policy in the administration of outdoor dining areas, sporting grounds and community facilities.

Performance Measures

The success of this Policy will be measured by:

- improved community compliance with State Government legislation;
- no reported breaches of this Policy; and
- a reduced number of smoking and litter complaints received.

Approved by:

WINGECARRIBEE SHIRE COUNCIL

22 July 2020



Attachments

There are no attachments to this Policy.