

8.5 Policy Review - Smoke Free Outdoor Areas

REPORT BY THE MANAGER BUILDING AND DEVELOPMENT
TO 17 AUGUST 2022 ORDINARY MEETING
GOV400098, A0100021

RECOMMENDATION

That Council:

1. **receive the report by the Manager Building and Development on the Policy Review - Smoke Free Outdoor Areas;**
2. **place the revised Smoke Free Outdoor Areas Policy on public exhibition for 28 days; and**
3. **adopt the revised Smoke Free Outdoor Areas Policy if no submissions are received.**

Executive summary

The existing Smoke Free Areas Policy has been reviewed and proposed amendments are suggested as part of Council's ongoing policy review program.

Disclosure of Interest

Nil

Detailed report

The revised Smoke Free Outdoor Areas Policy provides guidance and awareness to staff and the community of smoke free zones within various Council assets or land, along with providing the legislative requirements for enforcement activities.

The objective of the policy is to:

- Improve the health of community members;
- Improve public amenity and maintenance of Council property;
- Raise community awareness of the issues associated with smoking;
- Provide community leadership in taking measures to protect the health and social wellbeing of the community; and
- Minimise cigarette butt pollution on Council owned land.

All proposed changes to the Smoke Free Outdoor Areas Policy are shown as "track changes" within the copy of the Policy included as Attachment 1.

Community Plan implications

Theme	Good Government
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

Strategic implications

Council Strategies

The Smoke Free Outdoor Areas policy is assisting Council to effectively communicate and educate the community of the areas where smoking is not permitted.

Council Policies

Smoke Free Policy (existing)
Mid-Western Regional Council Code of Conduct

Legislation

Local Government Act 1993
Smoke-free Environment Act 2000
Smoke-free environment Regulation 2016

Financial implications

Not Applicable

Associated Risks

Without appropriate policies in place to regulate smoke free areas, there is risk of unlawful smoking activities which cannot be enforced by Council and also may result in poor customer service due to the lack of community awareness.

TY ROBSON
MANAGER BUILDING AND DEVELOPMENT

ALINA AZAR
DIRECTOR DEVELOPMENT

2 August 2022

Attachments: 1. Smoke Free Outdoor Areas Policy.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY

Smoke Free Outdoor Areas

*A prosperous
and progressive
community.*

ADOPTED

COUNCIL MEETING MIN NO
DATE 17 AUGUST 2022

VERSION NO 1.0

REVIEW DATE AUGUST 2026
FILE NUMBER A0100021

Objective

The objectives of Mid-Western Regional Council in banning smoking in various Council **areas owned buildings and on certain Council owned lands** are to:

- Improve the health of community members;
- Improve public amenity and maintenance of Council property;
- Raise community awareness of the issues associated with smoking;
- Provide community leadership in taking measures to protect the health and social wellbeing of the community; **and,**
- Minimise cigarette butt pollution on Council owned **land**.

Policy

This policy recognises that Council has:

- An obligation to promote public health outcomes where Council provides assets and services intended to be of benefit to children and other members of the community;
- A commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette butt litter found in outdoor spaces;
- An understanding that the damaging effects of passive smoking while well documented in regard to indoor areas, is also beginning to emerge in regard to outdoor areas; and
- An acknowledgement that the indirect effects of people smoking in an outdoor area can result in children playing with and swallowing discarded cigarette butts; cigarette-derived particles accumulating on clothing and skin; and smoking causing sensory irritations such as eye watering, coughing, difficulty in breathing or asthma.

The following areas on Council land are smoke free; that is no smoking:

- Within ten (10) metres of all children's playground equipment;
- On all playing fields, sporting grounds and sporting facilities (i.e. swimming pools, outdoor sports centres);

POLICY: SMOKE FREE OUTDOOR AREAS 1.0SMOKE FREE OUTDOOR AREAS

- At all events run or sponsored by Council;
- Within ten (10) metres of Council owned or managed buildings including balconies or covered areas of those buildings;
- Glen Willow Sporting Precinct; **and**
- Within all covered bus stops and taxi ranks,

Except at major events run by Council where a dedicated signposted smoking area is provided.

Legislative requirements

Under the NSW Local Government Act 1993 Council has the power to:

- Erect suitably worded and strategically placed notices in “public places” (such places including but not limited to public reserves, Crown reserves, public bathing reserves, public baths, public swimming pools, public parks and public roads) within the local government area of Mid-Western Regional Council prohibiting smoking (see **relevantly**, s.632 (1) and (2)(e) of the Act);
- Serve, by means of an authorised person, a penalty notice (Penalty: \$110.00) upon any person who fails to comply with the terms of any such notice (see **relevantly**, s.679 of the Act **and cl.5-7 of, and Schedule 1 to, the General Regulation**);
- Demand, by means of an authorised person, the name and address of any person reasonably suspected of failing to comply with the terms of any such notice (see, **relevantly**, s.680 of the Act);
- Remove, by means of an authorised person, from community land any person who fails to comply with the terms of any such notice (see, **relevantly**, s.681 of the Act); and
- Otherwise prohibit smoking in any place within the local government area of (name), in respect of which Council is the owner or occupier, as a condition of entry to that place.

Authorised Persons

The Mid-Western Regional Council Rangers are ~~“authorized persons”~~ ‘authorised persons’ pursuant to the Local Government Act 1993 which enables such persons to deal with, or to act in regard to, any acts, matters or things relevant to this policy.

Signage

All Council open space areas listed in the body of this policy will be signposted, wherever practicable, to provide smoke-free zones:

Signs will be installed in prominent places in the open space areas listed above. The signs will include the international no-smoking symbol and the wording:

WARNING: Heavy Penalty.

Regulated under s632 *NSW Local Government Act 1993*.

POLICY: SMOKE FREE OUTDOOR AREAS 1.0SMOKE FREE
OUTDOOR AREAS

Leases, Licenses and other Council Agreements

Council buildings and outdoor dining areas that are leased, licensed or hired by Council will have smoke-free clauses inserted into their agreements for use.

Enforcement of Ban

In implementing Council's ~~Smoke-free Policy~~ **Smoke Free Outdoor Areas Policy** a program of community education and awareness, specifically targeting residents and day visitors, is to be undertaken. Enforcement of this Policy will be by persuasion and self-policing, rather than punitive enforcement.