



SMOKE-FREE ENVIRONMENT - DECLARED PUBLIC AREAS POLICY

Policy Owner: Director Community, Planning & Environment

Category: Strategic

Direction: 3. Our Innovative City

1. STATEMENT OF INTENT

- 1.1 North Sydney Council acknowledges its obligation to promote public health outcomes where Council provides assets and services intended to be of benefit to all members of the community.
- 1.2 This Policy recognises Council's commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette smoking, passive smoke caused by smoking and cigarette butt littering in outdoor spaces in the North Sydney local government area.
- 1.3 This Policy aims to providing a rationale and framework for the management of Council declared smoke-free public areas where smoking is prohibited to protect both members of the community from the health and social impacts of second-hand cigarette smoke and the environment, particularly the waterways, from the litter generated by some smokers.

2. ELIGIBILITY

- 2.1 This Policy applies to all persons who use or are in the vicinity of the identified locations/public places within the North Sydney local government area that are detailed in this Policy.

3. DEFINITIONS

- 3.1 Smoking - to use, consume, hold or otherwise have 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.
- 3.2 Authorised Persons - Council Rangers.

- 3.3 Council-owned land - is land either owned by North Sydney Council or Crown land under the care, control and management of Council and land that is being leased by Council.
- 3.4 Recreational Facilities - owned by Council or on Crown land under Council's care, control and management, including the MacCallum Pool, North Sydney Olympic Pool, North Sydney Indoor Sports Centre, Skate Plaza, but excluding Cammeray Golf Course.
- 3.5 Sportsgrounds - are areas of land used primarily for active recreation involving organised sports, including tennis courts, croquet courts, netball courts and the like. Sportsgrounds include the playing surface as well as related ancillary facilities including infrastructure (flood lights, goal posts, nets etc.), amenities buildings (clubhouses, toilets, change rooms and storage areas), and other amenities (seating, shade, shelter, barbecues and picnic facilities).
- 3.6 Outdoor Dining - those areas associated with an existing or approved shop, restaurant, café, take away food or drink premises or tavern/pub located on land owned by the Council or under Council's care, control and management where Council has issued a licence for the purpose of outdoor dining.
- 3.7 Playgrounds - includes simple swing-sets tucked away in local parks to sophisticated custom-built playgrounds for children, with a multitude of activities, located in some of Council's larger parks.

4. PROVISIONS

- 4.1 The *Smoke-free Environment Act 2000* stipulates that the following settings are smoke-free:
- in public playgrounds within 10 metres of children's play equipment;
 - in open areas of public swimming pools;
 - an area set aside for or being used by spectators to watch an organised sporting event at a sportsground or other recreational area;
 - at public transport bus stops, wharves and stations;
 - at taxi ranks; and
 - within four metres of the pedestrian access point to a building accessible to the general public excluding those buildings that are used or partly used for residential purposes.
- 4.2 Non-compliance with any provision stated in 4.1 is an offence under the *Smoke-free Environment Act 2000*. Authorised Officers for the purpose of this Act are NSW Department of Health Inspectors.

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- 4.3 The *Local Government Act 1993*, gives Council the authority to further expand upon, manage and enforce smoke-free areas stated under the *Smoke-free Environment Act 2000* by declaring specified areas to be smoke-free and:
- a) Erecting 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 North Sydney prohibiting smoking (see, relevantly, Sections 632 (1) and (2)(e) and 632 (3) of the Act);
 - b) Serving, by means of a person authorised under the Act (Council Ranger and Parking Services Officer or Police Officer), a penalty notice (Minimum Penalty: \$110.00) upon any person who fails to comply with the terms of any such notice (see, relevantly, Section 679 of the Act);
 - c) Demanding, 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, Section 680 of the Act);
 - d) Removing, by means of an authorised person, from community land any person who fails to comply with the terms of any such notice (see, relevantly, Section 681 of the Act); and
 - e) Otherwise prohibit smoking in any place within the local government area of North Sydney, in respect of which Council is the owner or occupier, as a condition of entry to that place.
- 4.4 Accordingly, considering 4.3 above, Council may declare any place stated in section 3 above to be “Smoke-free”. In doing so consideration will be given as to the cost of implementing the prohibition; how the effective management of the prohibition will be and any likely enforcement actions taken against persons who may breach the prohibitions will be undertaken.
- 4.5 A “declared” Smoke-free area need not be named or otherwise mentioned within this policy for the area to be declared.
- 4.6 Playgrounds and Equipment - Although Council playgrounds and equipment are covered within the *Smoke-free Environment Act 2000*, Council will erect signs in accordance with Sections 632 (1) and (2)(e) of the *Local Government Act 1993*, in the vicinity of all playgrounds and equipment to notify that smoking is prohibited within 10 metres and that penalties apply. This prohibition will be enforced by Council Authorised Officers.
- Playgrounds situated within community centre grounds that are leased by Council to other organisations are subject to the prohibition stipulated within the *Smoke-free Environment Act 2000*.
- 4.7 Sportsgrounds and Recreational Facilities - Permits for the hire of Council’s sportsgrounds and recreational facilities have smoke-free clauses inserted into their agreements for use.

Conditions of hire will require management by the hirer of the smoking prohibition in the designated vicinity of sportsgrounds and recreational facilities in accordance with the *Smoke-free Environment Act 2000*.

Although Council Sportsgrounds and Recreational facilities including Cammeray Skate Park are covered within the *Smoke-free Environment Act 2000* wherever Council deems it appropriate, signage in accordance with Sections 632 (1) and (2) (e) of the *Local Government Act 1993* will be erected in the vicinity of specified sports fields and recreational facilities.

Tennis courts, croquet courts and netball courts that are leased by Council to other organisations are subject to a smoking prohibition stipulated within the *Smoke-free Environment Act 2000*.

In accordance with Sections 632 (1) and (2)(e) of the *Local Government Act 1993*, Council has prohibited smoking within 10 metres of McCallum Pool. Signs have been erected advising of this prohibition and the penalties that apply.

- 4.8 Outdoor Dining - Agreements to lease outdoor dining spaces have smoke-free clauses inserted into their licence agreements for use.

The lessee and or licensee will be responsible for enforcing the restrictions on smoking and for any non-compliance; and if there are continuous breaches, penalties may apply in accordance with Section 626 (3) of the *Local Government Act 1993* and licences may not be renewed.

- 4.9 Enclosed Bus Shelters and Taxi Ranks - Council will erect signs in accordance with Sections 632 (1) and (2)(e) of the *Local Government Act 1993*, in the vicinity of all enclosed bus shelters and taxi ranks situated on Council-owned land, to notify that smoking is prohibited and that penalties apply.

- 4.10 Education and Enforcement - Council will conduct educational programs to support the bans and to promote community awareness and acceptance.

Council Rangers have the authority to enforce the smoking bans and to issue penalties in accordance with Sections 679 of the *Local Government Act 1993*.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Council's Rangers are responsible for carrying out enforcement action for breaches of this Policy.
- 5.2 Council's Manager Ranger & Parking Services is responsible for consultation programs to promote community awareness of the Policy.

- 5.3 Council's Manager Environmental Services is responsible for the management of areas of prohibition and education programs to promote community awareness and acceptance.
- 5.4 Outdoor Dining Permit Holders are responsible for enforcing the restrictions on smoking and for any non-compliance in the area covered by the Permit/Licence Agreement.
- 5.5 Sportsgrounds and recreational facilities hirers are responsible for notifying players and spectators of the restrictions on smoking and for managing the prohibition for the period of the hire.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Complaints Handling Policy
- Outdoor Dining and Goods Display Policy
- Smoking in the Workplace Policy (staff policy)
- Sporting Facilities Booking Policy
- Parks Plans of Management (various)
- Playgrounds Plan of Management
- Sportsgrounds Plan of Management

The Policy should be read in conjunction with the following documents/legislation:

- Local Government Act 1993
- Smoke-free Environment Act 2000
- Smoke-free Environment Regulation 2016
- Work Health and Safety Act 2011
- Tobacco Legislation Amendment Act 2012

Version	Date Approved	Approved by	Resolution No.	Review Date
1	22 July 2019	Council	188	2020/21
2	22 September 2022	Council	296	2024/25
3	28 August 2023	Council	252	2024/25