

COUNCIL POLICY



Policy Name

Smoke-Free Environment

Abstract

The purpose of this Policy is to identify indoor and outdoor smoke-free areas regulated by the Smoke-free Environment Act 2000 as well as establish a smoke-free zone within a portion of the Gunnedah Central Business District.

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| Dates | Policy or amendment approved | 19 Apr 2017 |
| | Policy or amendment takes effect | 19 Apr 2017 |
| | Policy is due for review (up to 4 years) | 19 Apr 2017 |
| Endorsed by | Gunnedah Shire Council | |
| Approved by | Gunnedah Shire Council at its Ordinary Meeting of Council held Wed 19 Apr 2017 Resolution number: 12.04/17 | |
| Policy Custodian | Manager Building and Environment | |
| Relevant to | All Gunnedah Shire community members and any visitor when located within an area prescribed by this Policy. | |
| Superseded Policies | Nil | |
| Related Documents | Council's Community Engagement Policy | |
| Related Legislation | Local Government Act (NSW)1993 Smoke-free Environment Act 2000 Smoke-free Environment Regulation 2007 Liquor Act 2007 Roads Act 1993 Protection of the Environment Operations Act 1997 Tobacco Legislation Amendment Bill 2000 | |
| File Number | 1080237 | |

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1. Purpose

1.1 The purpose of this Policy is to identify indoor and outdoor smoke-free areas regulated by the *Smoke-free Environment Act 2000* as well as establish a smoke-free zone within a portion of the Gunnedah Central Business District.

1.2 The Policy aims to:

- Educate the community and raise awareness of the risks associated with not only first-hand consumption of cigarettes but also the potential impacts to others associated with second-hand cigarette smoke;
- Promote and improve public health by reducing exposure to tobacco and other smoke in certain public places;
- Provide leadership in taking measures to protect the health and social wellbeing of the community; and
- Minimise cigarette related pollution on the local environment.

2. Scope

2.1 This Policy applies to all persons when located within an area identified in Section 5.2 of this Policy.

2.2 Appendix 9.1 contains mapping outlining the areas of Gunnedah's CBD affected by this Policy.

2.3 This Policy should be read and used in conjunction with all applicable legislation and related documentation.

3. Definitions and abbreviations

| Term | Abbreviation | Definition |
|--------------------------------|--------------|---|
| Authorised Officer | | An employee of Gunnedah Shire Council who has delegated authority under the Local Government Act 1993 and Protection of the Environment Operations Act 1997. |
| Central Business District | CBD | The major commercial or business centre of a town, city or locality. |
| Commercial outdoor dining area | | Means an outdoor public place that is: <ul style="list-style-type: none"> (a) a seated dining area, or (b) within 4 metres of a seated dining area on premises that are licensed premises under the Liquor Act 2007 or the premises of a restaurant as defined in that Act, or (c) within 10 metres of a place at a food fair where food is sold or supplied for consumption at the event, with a food fair being an organised event at which the principal activities are the sale or supply of food for consumption at the event and the consumption of that food. |
| Enclosed public place | | Means a public place that has a ceiling or roof and, except for doors and passageways, is completely or substantially enclosed, whether permanently or temporarily. |
| Outdoor public place | | Means a public place that is not an enclosed public place. |
| Smoke | | Means smoke, hold or otherwise have control over, an ignited smoking product. |
| Smoke-free area | | Means an area designated as a smoke-free area by this Policy or any other relevant legislation. |
| Smoking product | | Means any tobacco or other product that is intended to be smoked including electronic cigarettes. |

4. Policy principles

Gunnedah Shire Council (“Council”) recognises that it has an important role to play in advocating positive public health outcomes for its community members and has a duty to provide for local services and facilities that benefit ratepayers, residents and visitors of the Shire.

Smoking is the leading cause of preventable death in NSW. There is also substantial evidence linking exposure to second-hand smoke with a range of serious and life-threatening health problems including heart disease, cancer, asthma and other respiratory problems, with children and young people being among the most vulnerable.

It is understood that the damaging effects of passive smoking whilst well documented in regard to indoor areas, is also beginning to emerge in regard to outdoor areas as well.

In addition to detrimental health impacts, cigarettes also contribute to street and storm water litter therefore also having a negative impact on the environment.

Council is committed to protecting health and providing for the welfare, wellbeing and interests of the local community as well as to protecting the environment and improving local amenity and is aware that the creation of smoke-free areas has the ability to help achieve an important reduction in many people's exposures to second-hand smoke as well as help to protect and enhance our local environment by reducing the amount of cigarette-butt litter.

5. Policy statement

5.1 Legislation

5.1.1 Smoke-Free Environment Act 2000

The *Smoke-free Environment Act 2000* and brings consistency across the State ensuring that all families in NSW have access to smoke-free public areas, including playgrounds, swimming pools and spectator areas of sporting grounds.

Under Section 6 & 6A of the said Act smoking is banned in all indoor public places and certain outdoor public places as identified in Section 5.2.1 of this Policy.

5.1.2 Local Government Act 1993

Under the provisions of the *Local Government Act 1993* Councils are able to introduce their own smoking bans in that they have the power to:

- a) 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, prohibiting smoking (Section 632);
- b) Serve, by means of an authorised person, a penalty notice upon any person who fails to comply with the terms of any such notice (Section 679);

- c) 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 (Section 680); and
- d) Otherwise prohibit smoking in any place within the local government area of Gunnedah, in respect of which Council is the owner or occupier, as a condition of entry to that place (Section 632).

5.2 Smoke-free Areas

5.2.1 Smoke-free Areas (regulated by the *Smoke-Free Environment Act 2000*)

The *Smoke-Free Environment Act 2000* and *Smoke-free Environment Regulation 2016* ban smoking in the following public places:

- (a) Outdoor public places;
 - Within 10 metres of children’s play equipment in outdoor public places;
 - Public swimming pool complex;
 - Public sports grounds or other recreational areas used for organised sporting events, when an organised event is being held;
 - Public transport stops and platforms, including ferry wharves, bus stops, railway stops, light rail stops, and taxi ranks;
 - Within four (4) metres of a pedestrian access point to a public building (unless that access is used solely for access to a residential building or is a locked emergency exit);
 - Commercial outdoor dining area; and
 - A place at a public hospital, health institution or health service.
- (b) Indoor public places;
 - Every enclosed public place (which includes but is not limited to the following):
 - Shopping centres, malls and plazas
 - Restaurants, cafes, cafeterias, dining areas and other eating places
 - Schools, colleges and universities
 - Professional, trade, commercial and other business premises
 - Community centres or halls and places of public worship
 - Theatres, cinemas, libraries and galleries
 - Trains, buses, trams, aeroplanes, taxis and hire cars, and ferries and other vessels
 - Hostels (other than residential accommodation)
 - Motels (other than residential accommodation)
 - Fitness centres, bowling alleys and other sporting and recreational facilities

- Childcare facilities
- Hospitals
- Casinos (other than a casino private gaming area or residential accommodation)
- Hotels (other than residential accommodation)
- Clubs (other than residential accommodation)
- Nightclubs

5.2.2 Smoke-free Areas (regulated by this Policy)

This Policy prohibits smoking cigarettes, including electronic cigarettes, or any other smoking products in the following public areas:

- Gunnedah CBD:

All of Conadilly Street between Henry Street and Tempest Street, including the public walkway to any public carpark within this area.

Appendix 9.1 contains mapping which identifies the smoke-free zone.

5.3 Signage

Smoke-free zone signage will be:

- (a) Installed under powers authorised by Section 632 of the *Local Government Act 1993*;
- (b) Signposted in as prominent locations as practicable within proximity to any area of any locality within Gunnedah Shire designated as a smoke-free zone; and
- (c) Contain (generally) the Australian Standard entitled *AS 1319—1994, Safety signs for the occupational environment*, no-smoking symbol, and contain wording similar to the following, as per the format prescribed by Clause 6 of the *Smoke Free Environment Regulation 2016*:



NO SMOKING. Penalties may apply.

NSW Local Government Act 1993, Smoke-free Environment Act 2000

5.4 Cigarette butt-out bins

Cigarette butt-out bins will be located wherever practicable and in close proximity to any locality within Gunnedah Shire designated as a smoke-free zone.

5.5 Compliance and enforcement

- (a) NSW Health is responsible for the administration and enforcement of the *Smoke-free Environment Act 2000* and penalties for non-compliance may be issued by those persons authorised to do so under the said Act.
- (b) Enforcement of this Policy will be supported primarily through smoke-free zone signage, community education, positive persuasion and self-policing amongst the community. Enforcement may also involve the issuing of penalty infringement notices by Council's Authorised Officers where required, as an additional measure to achieve compliance.

6. Accountability, roles, and responsibilities

- 6.1 Responsible Division
Building and Environment
- 6.2 Policy Custodian
Manager Building and Environment
- 6.3 Responsible Officer
Senior Building and Environmental Officer

7. Acknowledgements

The following acknowledgments are made recognising institutions or documents that have provided a basis, instructive comment or templates that have been used to develop this Smoke-free Environment Policy:

- (a) NSW Heart Foundation;
- (b) NSW Health;
- (c) Wollongong City Council's Crown Street Mall Smoke Free Policy;
- (d) Port Stephens Council's Smoke Free Outdoor Areas Policy; and
- (e) Gloucester Shire Council's Outdoor Smoke Free Policy.

8. Version control and change history

| Date | Version | Approved by & resolution no. | Amendment |
|-------------|---------|--|-----------------------|
| 15 Feb 2017 | 1.0 | Council Ordinary Meeting 15 Apr 2017 12.04/17 | Policy implementation |

9. Appendices

9.1 Smoke-free zone mapping

Appendix 9.1 – Smoke Free Zone Map



LEGEND

 = Smoke-free zone