10.3.3 Public Exhibition - Revised Smoke-Free Outdoor Areas Policy

Directorate: Community and Culture
Business Unit: Community and Creative Services

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Executive Summary

The purpose of this report is to present the revised Smoke-Free Outdoor Areas Policy to Council for review and approval.

Recommendation

That:

1. **Council endorse the revised Smoke-Free Outdoor Areas Policy to be placed on public exhibition for a period of 28 days.**
2. **If no submissions are received as a result of public exhibition that require further consideration, that Council adopt the revised Smoke-Free Outdoor Areas Policy, as attached to this report.**

Background

Council's Smoke-Free Outdoor Areas Policy (Policy) was adopted in 2020 and has recently been reviewed. As part of this review, extensive research and stakeholder consultation has taken place to inform a revised draft as attached in a track changes format (**Attachment 1**) and a final version (**Attachment 2**), based on legislation, research and best practice.

The primary purpose of smoking bans in public places is to protect vulnerable community members and the broader community from exposure to second-hand smoke. Council's Policy extends the reach of state legislation and enhances Council's commitment to improving public health outcomes in the local natural environment and amenity of the local government area by reducing the negative effects of smoking and use of e-cigarettes in public areas.

The revised Smoke-Free Outdoor Areas Policy further recognises Council's leadership in taking measures to protect the health and wellbeing of the community through expanding the latest policy to include electronic cigarettes in alignment with the updated *Smoke-Free Environment Act 2000* and ensure

the Policy covers other areas not specified under the *Smoke-Free Environment Act 2000.*

Additional smoke-free outdoor areas created within the Shellharbour Local Government Area by this Policy are summarised as:

- Playing fields, sporting grounds and Council-owned sporting facilities (not only spectator areas);
- Lakes and between the red and yellow flags to the land edge on Council's patrolled beaches;
- Skate parks;
- Outdoor fitness equipment; and
- Outdoor events.

Council Implications

FINANCIAL / RESOURCES

Following public exhibition and the adoption of the revised Policy (**Attachment 2**), a community education campaign will take place to advise the community and visitors of the changes to the Policy. This campaign, along with an audit and staggered roll-out of signage, in an ongoing consultative manner, will encourage self-policing and not add to the financial and resource implications for Council from a compliance perspective.

Dedicated Council officers are authorised to take enforcement action where a person is smoking or vaping in an area where smoking or e-cigarette use is prohibited and sign posted as provided by section 632 of the *Local Government Act 1993*. The maximum penalty is 10 penalty units, the value of which is determined by the *Interpretation Act 1987 No 15* under NSW Legislation.

LEGISLATION AND POLICY (INCLUDING ADVOCACY, STRATEGIC AND OTHER PLANS)

The revised Smoke-Free Outdoor Areas Policy aligns to specific state and national legislation, including:

- The *Smoke-Free Environment Act 2000* stipulates that a number of areas are smoke-free, including certain areas of: public playgrounds; swimming pool complexes; public transport areas, spectator areas for organised sporting events; pedestrian access points to a public building; and commercial outdoor dining area.
- The *Health Services Act 1993* regulates or prohibits smoking at any public hospital, health institution or a health service under the control of a local health district, including by designating an area as a smoke-free

area for the purposes of section 6A (smoke-free areas - outdoor public places) of the *Smoke-free Environment Act 2000*.

- Non-compliance with any provision stated above is an offence under the *Smoke-Free Environment Act 2000*.
- The *Local Government Act 1993* gives Council the authority to further expand upon, manage and enforce additional smoke-free areas not covered under the *Smoke-Free Environment Act 2000* by declaring specific areas to be smoke-free and erecting suitably worded and strategically placed notices in “public places” (such places including, but not limited to, public reserves, Crown reserves, public baths, public swimming pools, public parks and public roads) within the local government area of Shellharbour.
- Signs will be installed in strategically placed areas covered under this Policy and will include the no smoking symbol in accordance with Section 670 NSW *Local Government Act 1993*.

SOCIAL IMPACT

The revised Smoke-Free Outdoor Areas Policy benefits communities by improving community health and wellbeing, protecting community from secondhand smoke exposure, and fostering cleaner, safer public spaces. Tobacco smoking is one of the leading preventable causes of death and disease in Australia. This Policy aims to enhance air quality, improving the general health of individuals. This Policy can further assist in shifting social norms by increasing support for smoke-free environments.

SUSTAINABILITY CONSIDERATIONS

The revised Smoke-Free Outdoor Areas Policy shows Council’s commitment to improve the natural environment and the amenity of the local area. This Policy aims to reduce littering of cigarette butts and vapes, improving air and water quality, particularly in those defined smoke-free areas. An objective of the Policy is to create cleaner, more enjoyable public spaces for the whole community.

LEGAL CONSIDERATIONS

This policy complies with and supports implementation and compliance with the following policies and instruments:

- *Local Government Act 1993*
- *Smoke-free Environment Act 2000*
- *Smoke-free Environment Regulation 2016*
- *Health Services Act 1993*

If any legislation changes occur that are contrary or inconsistent with this Policy, the updated legislation will prevail.

RISK CONSIDERATIONS

- Business Risk - Council will conduct a community education campaign to advise community and visitors of changes to the policy. This campaign, along with an audit and staggered roll-out of signage, will encourage self-policing, reducing the potential enforcement requirements of authorised officers.
- Corporate Risk - While there is the risk that some community members may not be supportive of the Policy, this Policy will further enhance Council's image as a leader in taking measures to protect the health and wellbeing of the community as well as environmental and sustainability outcomes.
- WHS and Public Risk - This Policy will further protect staff by reducing secondhand smoke exposure for staff working in smoke-free outdoor areas, aligning with Council's WHS obligations to provide a safe workplace. This Policy aims to protect the community, including vulnerable groups such as children, seniors and people with respiratory conditions, in public spaces.
- Environmental Risk - The Policy aims to improve air and water quality and reduce the environmental impact caused by the litter of cigarette butt and vapes. There is a potential risk that there will be a displacement of smoking or vaping as smokers may relocate to unregulated areas, increasing litter and fire risk in sensitive areas. This will be monitored and reviewed on an ongoing basis and changes made, as required.
- Delivery Program Risk - A phased approach for the audit and roll-out of signage will allow for minimal impacts to the Delivery Program.

Link to Community Strategic Plan

This report supports the following objectives, strategies and actions of the Community Strategic Plan:

1.2 We are a liveable community

1.2.1 Inclusive, accessible and safe spaces for our entire community

1.2.1.02 Ensure that regulatory and compliance standards and local laws are appropriately regulated to promote community safety and appropriate environmental management

1.2.1.03 Promote, maintain and enforce public health standards within the City

1.2 We are a liveable community
1.2.2 Promote healthy living and quality public spaces
1.2.2.02 Provide a professional beach lifeguard service, ensuring our beaches are kept safe, maintained and accessible to all

2.2 We protect and enhance natural areas
2.2.1 Our natural areas, coasts and waterways are protected and enhanced to ensure sustainable use for present and future generations
2.2.1.03 Maintain and enhance our City's natural areas for our current and future generations

Previous Council Resolutions

Consultation

Internal
Aquatics and Recreation Coordinator
Child and Families Officer
Civic Centre Activation Manager
Community Safety Officer
Events and Activations Officer
Executive Manager Technical and Recreation Services
Manager Community Engagement and Activation
Manager Compliance and Regulation
Manager Environment
Property Management Coordinator
Recreation Planner
Sportsfields Officer
Team Coordinator Sportsfields

External
Cancer Council NSW
Cancer Institute NSW
Illawarra Shoalhaven Local Health District
Lake Illawarra Police

Political Donations Disclosure

Not applicable

Options

Option 1:
Council endorse the revised Smoke-Free Outdoor Areas Policy for the purposes of public exhibition and adoption, if no valid opposing submissions are received during the public exhibition period, in accordance with the recommendation.

Option 2:
Council not support the proposed changes to the revised Smoke-Free Outdoor Areas Policy and re-adopt the existing policy with no amendments.

Option 3:
Council rescind the existing Policy and rely on state and federal legislation alone which would minimise the community's ability to self-regulate and Council's role in this initiative.

Conclusion

Through the revised Smoke-Free Outdoor Areas Policy, Council plays a critical leadership role in protecting community members from the harmful effects of secondhand smoke and promoting cleaner and safer public spaces.

Attachments

1. Existing Smoke-Free Outdoor Areas Policy 2020 Track Changes
2. Draft - Smoke-Free Outdoor Areas Policy 2025