Shellharbour CITY COUNCIL

Policy

Smoke-Free Outdoor Areas

Policy Owner: Executive Manager Community and Creative Services	
Date Last Reviewed: 16 December 2025	**Review Date: 16 December 2029**

1. Policy Statement/Objective(s)

Shellharbour City Council is committed to playing an important role in advocating public health outcomes and has a commitment to improving the local natural environment and amenity of the local government area by reducing the risk of negative effects of smoking and use of e-cigarettes in public areas.

There is substantial evidence linking exposure to second-hand smoke with a range of serious and life-threatening health impacts. In addition to the health impacts, cigarettes and e-cigarettes contribute to street, beach and stormwater litter and are considered as an environmental issue. The provision of smoke-free outdoor areas can assist in reducing cigarette-butt and e-cigarette litter and enhance our local environment.

The objectives of the policy are to:

- protect members of the community from the health and social impacts of smoking and vaping by others in public places
- support the intent of the *Smoke-free Environment Act 2000* (NSW)
- improve public amenity and maintenance of Shellharbour City Council property
- raise community awareness of the issues associated with smoking and e-cigarette use
- provide community leadership in taking measures to protect the health and wellbeing of the community
- minimise cigarette-butt and e-cigarette pollution on Council-owned beaches, waterways, parks and other open space areas.

2. Scope

This policy applies to everyone in relation to outdoor public places in the Shellharbour Local Government Area.

3. Definitions

Commercial outdoor dining	Under the *Smoke-free Environment Act 2000*, this means an outdoor public place that is: - a seated dining area - within four metres of a seated dining area on premises that are licenced premises under the *Liquor Act 2000* or the premises of a restaurant as defined in that Act, or

	- 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.
Recreational area	The term 'recreational area' where stated in this policy, refers to Council owned or managed outdoor sporting facilities, playgrounds, skate parks, outdoor fitness equipment, public swimming pools, patrolled beaches and other natural areas, including bushland and foreshore.
Smoke	Means 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 (Smoke-free Environment Act 2000).
Sportsground	An area set aside for sports, usually with one or more playing fields and/or courts, usually accompanied by other features such as amenities for players and spectators and a potential grandstand (Shellharbour Open Space and Recreation Needs Study 2020).

4. Variation and Review

Council reserves the right to review, vary or revoke this policy.

Review History

Date Policy first adopted – version 1	4/12/2007
Date reviewed first adopted – version 2	18/10/2010
Date amendment adopted – version 3	18/09/2012
Date amendment by ELT – version 4	30/5/2017
Date minor amendments made – version 5	11/08/2020
Date amendment adopted by Council - version 6	16 December 2025

5. Policy

5.1. Introduction

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
- an understanding that the damaging effects of exposure to second-hand smoke and e-cigarette vapour, while well-documented in regard to indoor areas, is also recognised as a priority in outdoor areas.
- outlined a strategy for Council's management of smoking on and around a range of outdoor areas, including public playgrounds, swimming pools, patrolled beaches and sportsgrounds.

- a commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette-butt and e-cigarette litter found in outdoor spaces.

5.2. Provisions under Legislation

The *Smoke-free Environment Act 2000* stipulates that the following areas are smoke-free:

- in public playgrounds, within 10 metres of children's play equipment;
- a swimming pool complex;
- 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 train station platforms;
- at taxi ranks;
- 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;
- commercial outdoor dining area;
- a place at a public hospital, health institution or health service under the *Health Services Act 1997* that is designated as a smoke-free are by a by-law or regulation under that Act and notified by signs displayed in, or at an entrance to, any such area: and
- any other outdoor public place that is prescribed by the smoke-free regulations as a smoke-free area.

Non-compliance with any provision stated above is an offence under the *Smoke-free Environment Act 2000*.

5.3. Additional Smoke-Free Areas

The *Local Government Act 1993* gives Council the authority to further expand upon, manage and enforce smoke-free areas 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.

Additional smoke-free outdoor public places declared under this Policy, include the following areas:

- Lakes and between the red and yellow flags to the land edge at Council's patrolled beaches
- On all playing fields, sporting grounds and Council-owned sporting facilities (i.e. swimming pools)
- Within 10 metres of skate parks
- Within 10 metres of all outdoor fitness equipment
- Outdoor events on Council land

The prohibition of smoking, including the use of electronic cigarettes, in these areas applies at all times, not just the specific times identified by some parts of the *Smoke-free Environment Act* (such as areas set aside for spectators to watch sporting events only when an organised sporting event is on).

Document Set ID: 10827040
Version: 4, Version Date: 26/02/2026

5.4. Additional Leases, Licences 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. This will take effect immediately for all new agreements, or on renewal of existing agreements.

5.5. Signage

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*. NSW Health 'No smoking means No vaping' signage can also be used to increase community awareness that smoke-free areas include e-cigarettes.

5.6. Compliance, Monitoring and Review

- Inspectors identified under Part 14 of the *Smoke-free Environment Act* have the authority and are responsible for the administration and enforcement of the smoke-free areas identified under the Act (as per section 7.1 of this policy). Complaints relating to people smoking in areas defined under the Act should be referred to NSW Health.
- For sections 7.1 and 7.2 of this policy, the *Local Government Act* gives Shellharbour City Council powers to:
    - erect suitably worded and strategically placed notices in 'public places' within the local government area, prohibiting smoking and vaping.
    - serve, by means of an authorised person, a fine upon any person who fails to comply with the terms of any such notice.
    - demand, by means of an authorised person, the name and address of any person reasonably suspected of failing to comply with terms of any such notice.
    - remove, by means of an authorised person, from community land any person who fails to comply with the terms of any such notice.
    - otherwise prohibit smoking and e-cigarette use in any place within the Shellharbour Local Government Area, in respect of which Council is the owner or occupier, as a condition to that place.
- Shellharbour City Council's Compliance and Enforcement Policy will guide the enforcement of this Policy, with the view that this Policy will be supported by persuasion and self-policing in the first instance, and then punitive enforcement as required and subject to resourcing.

Document Set ID: 10827040
Version: 4, Version Date: 26/02/2026

6. References and Related Documents

- Future Health: Guiding the Next Decade of Health Care in NSW 2022-2032
- *Health Services Act 1997*
- *Liquor Act 2000*
- *Local Government Act 1993*
- *Smoke-free Environment Act 2000*
- *Smoke-free Environment Regulation 2016*
- *Protection of the Environment Operations Act 1997*

7. Attachments

Nil

Policy Authorised by:

Name: Council Resolution Number: 216/2025

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