



INVERELL
SHIRE COUNCIL

BUSINESS PAPER

Supplementary Reports
Civil and Environmental Services
Committee Meeting
Wednesday, 13 July 2022

INVERELL SHIRE COUNCIL

11 July, 2022

A Civil and Environmental Services Committee Meeting will be held in the Committee Room, Administrative Centre, 144 Otho Street, Inverell on Wednesday, 13 July, 2022, commencing at **9:00AM**.

Your attendance at this Civil and Environmental Services Committee Meeting would be appreciated.

Please Note: Under the provisions of the Code of Meeting Practice the proceedings of this meeting (including presentations, deputations and debate) will be recorded. The audio recording of the meeting will be uploaded on the Council's website at a later time. Your attendance at this meeting is taken as consent to the possibility that your voice may be recorded and broadcast to the public.

I would like to remind those present that an audio recording of the meeting will be uploaded on the Council's website at a later time and participants should be mindful not to make any defamatory or offensive statements.

P J HENRY PSM

GENERAL MANAGER

Agenda

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5 DESTINATION REPORTS

5.4 SMOKE-FREE OUTDOOR PUBLIC PLACES POLICY

File Number: S24.17.1 / 22/22489

Author: Brett McInnes, Director Civil and Environmental Services

SUMMARY:

The public exhibition of Council's draft Smoke-free Outdoor Public Places policy has concluded. Of the submissions received approximately 80% were in support of Council's initiative. The Committee is being asked to recommend to Council to formally adopt the policy.

RECOMMENDATION:

That the Committee recommend to Council:

- i) That the draft Smoke-Free Outdoor Public Places Policy be adopted as presented;*
- ii) The policy commence upon erection of required signage and community notification; and*
- iii) A further report evaluating the effectiveness of the policy be provided at the completion of 12 months from the date of commencement.*

COMMENTARY:

Council has developed a draft Smoke-free Outdoor Public Places Policy. A copy of the draft policy has been included in **Attachment 1**. At its ordinary meeting on 25 May 2022, Council endorsed the draft policy for the purpose of placing it on public exhibition.

The draft policy was subsequently placed on public exhibition for a period of 28 days commencing on the 10 June 2022 with submissions closing on Thursday, 7 July 2022.

The public exhibition was advertised via the local newspaper, radio stations, Council's website and social media platforms. A letter drop was undertaken to those business houses within the area impacted by the policy. General news and editorial coverage of the matter was also provided by local media.

In response to the public exhibition, Council received a total of 19 submissions. The submissions were predominately in the form of the on-line 'have your say' proforma option provided on Council's web page. A copy of each submission and a summary sheet has been provided to Councillors under separate cover. Of the submissions received 15 (79%) were in support of Council's draft policy and 4 (21%) were against.

Council, through its draft policy has conveyed to the community:

- The objectives and rationale for the policy.
- Scope of policy provisions (where ban would apply).
- Legislative provisions relevant to any future implementation.
- Enforcement approach (how Council would seek to encourage compliance).
- Monitoring and actions.

Whilst the community response was not extensive, formal objection to the draft policy was very limited.

Council is now in a position to adopt the policy and commence implementation. If Council resolves to take this course of action, it will be necessary to order and erect the required signage. This is likely to take a period of 6 to 8 weeks depending on supply and availability of resources. A lead up period to the implementation will also provide Council with the opportunity to promote the commencement of the policy and to ensure broad community awareness.

RISK ASSESSMENT:

Nil

POLICY IMPLICATIONS:

A draft policy has been provided for consideration.

CHIEF FINANCIAL OFFICERS COMMENT:

A previous estimate of \$9000 has been provided to cover procurement and erection of required signage to implement a smoking ban in the core CBD.

LEGAL IMPLICATIONS:

Council has the power under section 632 of the *Local Government Act 1993* to erect notices in public places preventing the doing of anything in the place (such as smoking).

ATTACHMENTS:

1. **Draft Smoke-free Outdoor Public Places Policy** [↓](#)



Inverell Shire Council

Smoke-Free Outdoor Public Places Policy

May 2022

1. Purpose

The purposes of the policy are as follows:

- Protect members of the community from the health and social impacts of smoking by others in public places,
- Improve public amenity and maintenance of Council property,
- Help to protect the environment from the impacts of discarded cigarette butts,
- Support the intent of the *Smoke-free Environment Act 2000 (NSW)*(**SFE Act**).

2. Principles

The policy recognises that Council has:

- An obligation to promote public health outcomes where Council provides assets and services for the benefit the community.
- A commitment to improve the natural environment and the amenity of the local area by reducing cigarette related litter.
- An acknowledgement of the damaging effects associated with passive smoking in outdoor public spaces.
- An understanding of the indirect effects of smoking in outdoor areas such as atmospheric pollution, sensory irritations and exposure to discarded cigarette butts.
- Adopted a Community Strategic Plan that includes the following destinations:
 - i) A community that is healthy, educated and sustainable; and
 - ii) An environment that is protected and sustained.

3. Scope

This policy applies to everyone in relation to the nominated outdoor public places in the Inverell Shire Council Local Government Area. Further information regarding nominated smoke-free areas is contained in Part 6 of this policy.

4. Background (State Wide Controls)

Controls exist under the SFE Act that ban smoking in enclosed public places and various outdoor public places including:

- a. within 10 metres of children's play equipment,
- b. public swimming pool complexes,
- c. spectator areas at public sports grounds and other recreational areas,
- d. at public transport stops and stations, (bus stops and taxi ranks)

- e. within 4 metres of a pedestrian access point to a public building,
- f. commercial outdoor dining areas.

Smoking bans in the above areas are regulated by NSW Health. Complaints relating to people smoking in those areas identified in the Act should be referred to NSW Health.

Through application of this policy Council extends the smoking ban to additional outdoor public places in Inverell Shire.

5. Legislative Framework

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

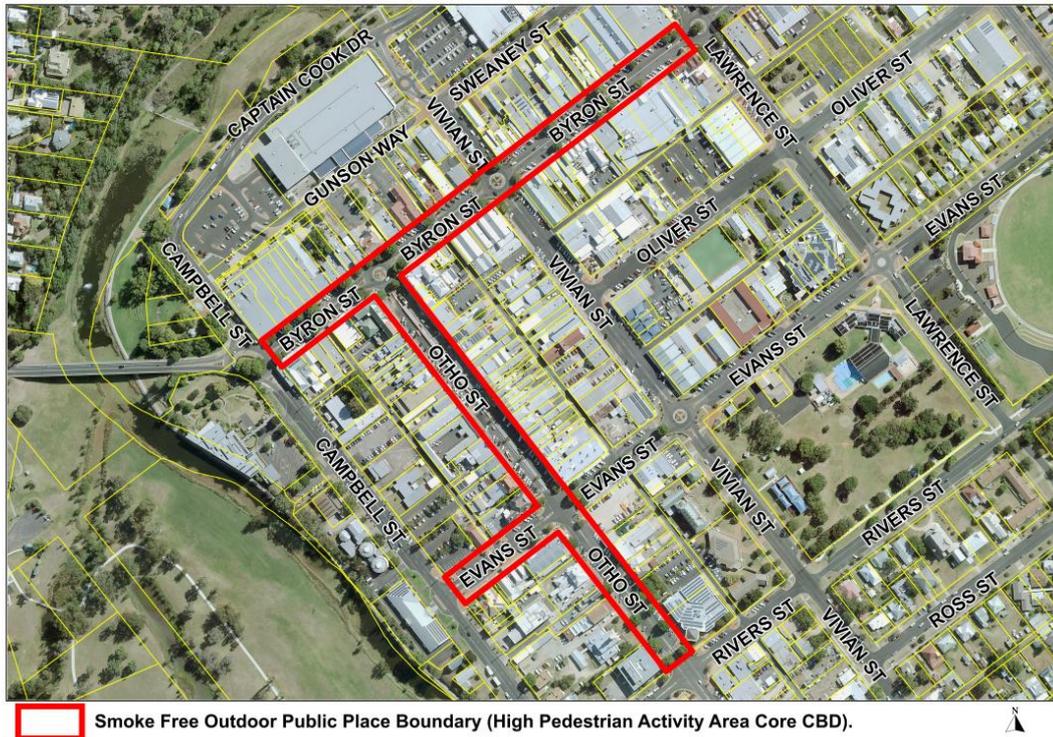
- Erect suitably worded and strategically placed notices in public places (including public roads) prohibiting smoking (including e-cigarettes) (s.632 (1) and (2) (e) of the Act).
- Serve by means of an authorised person, a penalty infringement notice (\$110.00) upon any person who fails to comply with the terms of any such notice (s.679 of the Act).
- 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 (s680 of Act).
- Remove, by means of an authorised person, from community land any person who fails to comply with the terms of any such notice (s681 of the Act).

Council also has a common law right as a condition of entry to prohibit smoking on properties it owns or occupies. All Council owned buildings are smoke-free environments.

6. Application (Additional 'Smoke-Free' Outdoor Public Places)

This policy prohibits smoking (including the use of electronic cigarettes) in the following outdoor public areas:

- High Pedestrian Activity Areas of Inverell Core CBD defined as:
 - Otho Street (between Rivers Street and Byron Street)
 - Byron Street (between Campbell Street and Lawrence Street)
 - Evans Street (between Otho Street and Campbell Street)



The prohibition of smoking in these areas applies at all times. Suitable signage will be installed as required throughout the identified area.

These areas are in addition to those places listed under the SFE Act.

7. Enforcement and Authorised Persons

Enforcement of this policy will rely on signage, positive persuasion (messaging) and self-policing through the community. In certain instances enforcement may also include the issuing of penalty infringement notices by authorised officers if necessary to achieve compliance.

Council Rangers and Environmental Health Officers are authorised officers for the purpose of enforcement action in accordance with this policy. NSW Police Officers are also authorised officers under the provisions of the Local Government Act.

8. Variation and Review

Council shall review this policy on an annual basis. Council reserves the right to vary or revoke this policy at its discretion.