

KEMPSEY SHIRE COUNCIL

OUTDOOR SMOKE FREE

Procedure 1.2.13

Policy No. and title	1.2	Lands under Kempsey Shire Council Jurisdiction Policy
Procedure	1.2.13	Outdoor Smoke Free
Version	3	
Date Adopted	24 October 2012	

1 INTRODUCTION

Kempsey Shire Council is committed to encouraging a healthy lifestyle that contributed to the life and vitality of residents and visitors.

2 PROCEDURAL DETAILS

Smoking is prohibited:

- 2.1 Within four (4) metres of all Kempsey Shire Council designated children's playground equipment, fixed outdoor exercise equipment and designated walking trails;
- 2.2 Within four (4) metres of all Kempsey Shire Council owned or managed buildings (including balconies, covered areas, public halls, toilets, sports centres, depots, airport terminals, council wharves and jetties, waste facilities or the like);
- 2.3 Within four (4) metres of all leased, licensed Council land and all Council owned and managed lands and properties, including community gardens;
- 2.4 In all alfresco dining areas under license agreement with Kempsey Shire Council;
- 2.5 At all events outdoor organised or sponsored by Council or held on land under Council control (except as permitted by 2.7 below);
- 2.6 On beaches that are monitored as part of Council's Beach watch Program. These include Crescent Head main beach, Hat Head main beach, Grassy Heads main beach, South West Rocks main beach and Horseshoe Bay;
- 2.7 On all playing fields, recreation areas, sporting grounds and sporting facilities (i.e. swimming pools, outdoor sports centres) and the like. (Note: Smoking will be permissible within designated car parking areas at these locations only);
- 2.8 In all covered bus shelters, bus stops and taxi ranks, and
- 2.9 In all parks and reserves.

Further, that this procedure be enforced in any leases, licenses or other estates that apply to Council owned and managed lands and properties and that internationally recognised signage be erected to indicate that these areas are smoke-free.

3 LEGISLATION

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

- a) Erect suitably worded and strategically placed notices in “public places” (such places including but not limited to designated children’s play grounds, Town Halls and other Council buildings within the Local Government area of the Kempsey Shire prohibiting smoking (see, relevantly s.632 (1) and (2)(e) of the Act);
- b) For failing to comply with policy after the issue of a verbal warning serve, by means of an authorised person, a penalty notice (Penalty: \$110.00) upon any person who fails to comply with the terms of any such notice (see, s.679 of the Act);
- c) Otherwise prohibit smoking in any place within the local government area of Kempsey Shire, in respect of which Council is the owner or occupier, as a condition of entry to that place;
- d) Include in all alfresco dining license agreements with the Kempsey Shire Council the prohibition of smoking in the licensed area.

4 ENFORCEMENT OF THIS PROCEDURE

Community support for this policy and procedure should ensure that the bans are self-policed, providing the community benefit which Kempsey Shire Council aims to achieve. Enforcement of this Policy will supported by community education and self-policing, rather than punitive enforcement. Staff supervision and if self-policing does not achieve the objectives of this policy however, enforcement options may occur as detailed above.

4.1 Authorised Persons

The following Kempsey Shire Council staff are “authorised persons” for the purposes of enforcement of this procedure:

- Council Rangers

5 SIGNAGE

The following Council open space areas will be signposted, wherever practicable, to provide smoke-free zones:

Examples:

- 5.1 Within four (4) metres of all Kempsey Shire Council designated children’s playground equipment.
- 5.2 Within four (4) metres of Council owned or managed buildings (including balconies, covered areas, public halls, toilets, sports centres, depots, airport terminals, council wharves and jetties, waste facilities or the like).
- 5.3 In all alfresco dining areas under license agreement with Kempsey Shire Council.
- 5.4 At all events outdoor organised or sponsored by Council or held on land under Council control (except as permitted by 5.6 below).

5.5 On beaches that are monitored as part of Council's Beach watch Program. These include Crescent Head main beach, Hat Head main beach, Grassy Heads main beach, South West Rocks main beach and Horseshoe Bay.

5.6 On all playing fields, sporting grounds and sporting facilities (i.e. swimming pools, outdoor sports centres) and the like. (Note: Smoking will be permissible within designated car parking areas at these locations only.)

Signs will be installed in prominent places in the open space areas listed above. The signs will include the international no-smoking symbol.

6 LEASES, LICENSES 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.

7 RELATED LEGISLATION

- Section 632 NSW Local Government Act 1993.

VARIATION

Council reserves the right to review, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.