



<b>Document Register ID</b>	250.2016.62.1	<b>Type of Document</b>	Procedure
<b>Document Author</b>	Risk Officer	<b>Date Approved</b>	10 August 2016
<b>Authorised by</b>	Governance	<b>Resolution No</b>	EMT261/16
<b>Applicable to</b>	All workers at all Council worksite		
<b>Purpose</b>	<p>The purpose of this document is to ensure the health, safety and welfare of workers and other users of Council facilities and to provide positive assistance to staff to quit smoking.</p> <p>The <i>Work Health and Safety Act 2011</i> establishes Council’s obligations, as a person conducting a business or undertaking (PCBU) to ensure that the health and safety of all workers and visitors at any work site. Similarly, all workers must take reasonable care for the health and safety of others at work.</p> <p>The most effective means of controlling health risks is to eliminate the hazards from the environment. In the case of passive smoking, this means the elimination of environmental tobacco smoke (ETS) from the workplace.</p>		
<b>Frequency</b>	This procedure must be followed at all times and in accordance with SMRC61 Health & Safety		
<b>Hazard Identification</b>	Various hazards may be identified in the undertaking of this procedure. All hazards associated with each circumstance should be recorded, assessed and controlled in accordance with Councils enterprise risk management system.		
<b>Level of risk</b>	Various levels of risk may be determined in the analysis of identified hazards. Levels of risk identified in each circumstance should be managed in accordance with Councils enterprise risk management system.		
<b>PPE required for procedure</b>	Various PPE may be required and should be considered on an individual assessment when undertaking this procedure.		

## 1. Background

There is strong scientific evidence that environmental tobacco smoke (ETS), sometimes called second hand smoke or passive smoking, is hazardous to health and causes disease and premature death in those who do not smoke.

Environmental tobacco smoke is the combination of smoke emitted from the burning end of a cigarette or other tobacco product, including e-cigarettes and smoke exhaled by a smoker.

In accordance with its *Work Health and Safety Act 2011* primary duty of care duty, Council has developed these procedures. While Council recognises that tobacco smoking is not an illegal activity, workers and members of the public who voluntarily use tobacco products may expose involuntarily smokers (i.e., non-smokers) during working hours to environmental tobacco smoke. Consistent with Council's risk management framework, Council has developed this procedure to eliminate this risk.

The New South Wales *Smoke-free Environment Act 2000* prohibits smoking in a wide range of enclosed public areas in NSW. These include those areas of professional, trade, commercial and other business premises to which the public have access.

Council extends this obligation by ensuring that workers and other persons are protected from the harmful effects of environmental tobacco smoke. There is well-documented medical evidence that smoking and environmental tobacco smoke can cause disease and death in smokers and non smokers.

Council is committed to providing a safe working environment by reducing the effects of environmental tobacco smoke. Council recognises the adverse effects of environmental tobacco smoke on workers. Smoking by all persons is prohibited at Council worksites.

## 2. Responsibilities

### 2.1. Council

Council is responsible for the strategic and systematic approach to the management of identified risks across all Council business associated with workplace health and safety by ensuring a health and safety policy is developed, adopted and communicated throughout the Council region and providing budgetary provisions for health and safety strategies to be implemented.

### 2.2. General Manager and Executive Team

The General Manager is responsible for managing operational health and safety risks across all Council business. With the Executive Team they are responsible for ensuring the health, safety and welfare of all workers and other persons by preventing exposure to environmental tobacco smoke and to protect Council assets from damage caused by cigarette smoke.

### 2.3. Managers Supervisors Team Leaders

Managers, supervisors and team leaders must:

- a) ensure workers and themselves comply with this procedure.

- b) discuss the content of this procedure with any worker or other persons indicating that Council is a smoke free environment.
- c) offer support to those wishing to quit smoking
- d) supervise and audit contractors to ensure that contractors, sub contractors and other persons comply with this procedure throughout the period of the contract.

## 2.4. Workers

Workers are responsible for complying with the requirements of this procedure. Any worker that receives a direction not to smoke, including e-cigarettes, is expected to comply and respond cooperatively and courteously.

Further, workers are to ensure other workers and visitors to the workplace comply with this procedure.

## 2.5. Contractors

Contractors are responsible for complying with the requirements of this procedure. Any contractor or worker of a contractor or sub contractor that is instructed not to smoke, including e-cigarettes, is expected to comply immediately. Failure to do so will lead to a direction to leave a Council worksite immediately.

## 3. Definitions

**Workers** are defined consistent with that of Section 7 of the *Work Health and Safety Act* and shall include employees; contractors and sub contractors; employees of contractors or sub contractors; employees of labour hire companies assigned to work for Council; outworkers; apprentices; trainees; students gaining work experience and a person of a prescribed class.

**Council workplaces** are defined consistent with that of Section 8 of the *Work health and Safety Act* being a place where work is carried out for Council and includes any place a worker goes or is likely to be while at work.

**Working hours** are defined as, from a worker's designated start of their workday to the end of the workday or shift, ***excluding a worker's morning tea break and their unpaid meal break***, inclusive of any overtime, TIL or Flex accrual, on call or call back.

**Unpaid Meal breaks** are defined as Section 18A(vii) of the Local Government (State) Award being a minimum of 30 minutes within the first five hours of continuous work.

**Morning tea break** is a paid break offered to workers at the discretion of the General Manager. A condition of this break is it must be taken at the worksite. i.e workers are not entitled to leave their worksite and return to a Council building, have their morning tea break and then return to the worksite. This break is a morning break approximately one and a half hours after commencing work subject to work undertaken.

## 4. Procedure

### 4.1. Procedure

This procedure is part of Council’s commitment to Health and Safety and applies to all persons. Smoking, including e cigarettes, by all persons is prohibited at Council workplaces.

This Smoke Free Working Environment Procedure applies to

- a) all workers from entry on to Council worksites at the start of the day until the working day is completed and workers have left Council worksites. (inclusive of overtime, TOIL or Flex accrual, on call and call back).
- b) all other persons, such as visitors and volunteers, at all times.

Smoking is only permitted in certain areas during unpaid meal breaks and morning tea breaks which are detailed in the table below:

Location/Premises	During working hours	During meal breaks
Open air places	Prohibited	Prohibited within 20 metres of other non-smoking staff, plant, vehicles and camp or temporary work facilities.  Smokers should be mindful of other and smoke down wind of those around them.
Outside enclosed and partially enclosed structures, but not limited to e.g. buildings, storage areas, picnic shelters	Prohibited	Prohibited within 20 metres of any external opening, door or window or air conditioning intake
Within enclosed and partially enclosed structures, but not limited to e.g. buildings, storage areas, picnic shelters	Prohibited	Prohibited
Within Council-owned fenced properties	Prohibited	Prohibited
In Council-owned vehicles/plant and caravans	Prohibited	Prohibited

Workers choosing to smoke are required to consider:

- not placing fellow work colleagues or other persons in the position of inhaling environmental tobacco smoke.
- the impact their smoking has on the professional image of Council
- Littering is an offence under the *Protection of the Environment Operations Act*. Cigarette butts are included in this definition and littering exposes the offender to fines. Council does not condone littering.

Human resources when advertising new or vacant positions for new workers shall state that Council has a smoke-free workplace where smoking, including e-cigarettes, is prohibited during working hours at Council workplaces.

Council shall ensure that signage, indicating smoke-free areas, is prominently displayed.

#### 4.2. Assistance

Assistance will be provided to workers. Council recognises that workers who would like to “quit” from the need to smoke should be given encouragement and organisational assistance.

Encouragement and assistance can be gained in the following ways:

- Workers to talk to their health fund about the possible rebates on Quit programs and products.
- Council’s EAP can provide support to workers who wish to quit smoking 1300 361 008.
- For the cost of a local call (except for mobile phones – normal charges apply) from anywhere in Australia, the QUITLINE provides advice and assistance to smokers who want to kick the habit. It is available 7am-10pm, 7 days a week, offering a confidential, free service for workers who want to quit smoking. Phone 13 78 48.
- During the first three month post adoption of this procedure, Council will offer a one off rebate of up to \$50.00 on production of a receipt for nicotine replacement therapy during the three month transition period only.
- Pharmaceutical Benefits Scheme offers rebates on certain quit smoking prescriptions, please see your doctor for more information.

#### 4.3. Implementation

This procedure shall be implemented three months after approval of Council’s Executive Team. This time is to allow those workers who currently smoke sufficient time to adjust to the implementation of this procedure. At the conclusion of the three month implementation period this procedure will be enforced consistent with 4.4 Enforcement.

#### 4.4. Enforcement

Workers are responsible for ensuring that Council maintains a smoke free environment by complying with the provisions of this procedure and reporting any incidents, which breach these procedures at all times.

In particular, managers, supervisors and team leaders are responsible for ensuring that all workers and other persons under their supervision fully understand the requirements and provisions of the procedures and enforce the procedure.

Managers, supervisors and team leaders who knowingly allow breaches of this procedure, including e-cigarettes, are in breach of this procedure themselves

Human Resources is responsible for ensuring that this procedure is included in induction training for new staff.

Workers who fail to abide by the Smoke Free Working Environment Procedures may be subject to disciplinary action as set out in The Local Government State Award and SMRC1 Code of Conduct.

For all workers employed on or after the date of adoption of SMRC61 Health & Safety these procedures will be effective immediately.

Workers who fail to consider the safety of others at work by not complying with the procedures may be personally liable to a fine of up to \$100,000 under Section 33 of the *Work Health and Safety Act 2011*.

Penalties will apply to contractors who fail to abide by these procedures. Contracts signed after the policy adoption will include reference to this procedure. Agents and contractors who breach this procedure will have their contracts with Council terminated.

## 5. Related Documents

This procedure should be read in conjunction with the following documents:

Document Register ID	Title of Document
250.2016.61.1	SMRC61 – Health & Safety
250.2016.01.1	SMRC1 – Code of Conduct