



Application Guide

Declared Smoke-free Area

Declared smoke-free areas

Declared smoke-free areas are public outdoor spaces where smoking (including the use of e-cigarettes) has been banned. These areas can be created to address a passive smoking risk or to support the management of smoking at an event.

Sections 51 and 52 of the *Tobacco and E-Cigarette Products Act 1997* allow local councils and other incorporated bodies to apply to have an outdoor area or event declared smoke-free.

Areas that can be declared smoke-free

An application can be submitted to declare public outdoor areas smoke-free. Private, residential property cannot be declared smoke-free.

A smoke-free declaration can be used to address a local smoking issue in a public outdoor area, if a clear rationale is provided. The types of areas or events that can be considered include shopping districts, high traffic business districts and congested entrances, car parks, footpaths and streets as well as events such as fetes, sporting events or music and art festivals.

Applications must demonstrate that a risk of passive smoking exists or that smoking impacts on the amenity of an area. For example, a large open park or suburban street is unlikely to be considered for a long-term declaration but would be considered for a short-term declaration during an event.

Eligible applicants

Applications will only be accepted from local councils and other incorporated bodies. Individuals can seek declarations through their local council. Incorporated bodies include groups that run major events, such as festivals and music events.

Applicants must identify a smoking issue, show that they represent the area being declared, have community support for a declaration and are able to manage the enforcement of the smoke-free area. Enforcement is likely to require either the support of the local council or complete control of the area, such as at an event.

Making an application

There are two types of applications: short term and long term.

Short-term applications

The Minister has the power to declare a smoke-free area for a period of up to **three days**. Completed applications for an event of three days or less should be received at least **eight weeks before the event**.

Long-term applications

Major and long-term areas and events will be declared smoke-free by Regulation. Due to the Cabinet and Parliamentary processes required to introduce a Regulation, a completed application must be received at least **six months before it is introduced**.

Developing an application

An application must include:

- > A rationale for the smoke-free area
- > A map and description of the smoke-free area
- > A risk management plan
- > An enforcement strategy
- > The location of signage
- > A communications plan
- > Evidence of consultation
- > An evaluation plan

Rationale

Applicants for declared smoke-free areas must identify an issue in a specific area that a declaration will address. The rationale should include a description of the smoking problem, demonstrate that a risk of passive smoking exists or that smoking impacts on the amenity of an area and show how the declaration of a smoke-free area will address this. The rationale should also include the dates and length of time that the declared area will apply.

Map and description of the smoke-free area

Applications must include a detailed description of the area or event, including a map and the placement of signage.

The smoke-free area is expected to cover the bulk of an area or event, but is not required to be continuous. Areas can be specified where smoking will continue to be allowed.

Risk management plan

Applications must include a risk management plan that considers the consequences of a smoke-free area and strategies for addressing potential negative outcomes.

For example, smoking bans tend to create a high density of smokers outside the smoke-free area, such as at entrances that patrons are required to pass through.

Issues that should be considered include:

- > Where will smokers move to?
- > Can smokers easily enter and exit the smoke-free area? Are pass outs required?
- > Will there be any negative responses from patrons and how will these be addressed?

Enforcement plan

Applications must include an enforcement plan describing how the smoke-free area will be enforced.

Any person aged 15 years and over found smoking in a declared smoke-free area is guilty of an offence and can be fined up to \$750. An expiation fee of \$105 can be issued by authorised officers.

Local councils that apply for a smoke-free area are expected to also apply for their officers to be authorised to enforce the smoke-free area.

Organisers of events will be expected to either show that the local council supports and will enforce the smoke-free area, or that staff and security officers will ask patrons not to smoke. Staff and security officers cannot issue fines.

The enforcement plan should include guidelines describing how smoking breaches will be addressed. SA Health recommends an educative approach to enforcement. Smokers should be informed about the smoke-free area and politely asked to either stop smoking or leave the area. Confrontation with smokers should be avoided. Most people are prepared to voluntarily comply with a smoke-free area when they are aware of it, providing that the area is clearly sign posted as smoke-free.

Location of signage

The *Tobacco and E-Cigarette Products Act 1997* requires that signs are posted in numbers and in positions that ensure they are likely to be seen in the smoke-free area. The application should show on a map where signs will be posted and include a copy of the signs that will be used (an example sign is attached to this document).

Communication plan

Applications must include a communication plan. It should describe how the patrons and businesses in the area will be informed about the smoke-free area.

The scale of the communication plan should reflect the impact on the community of declaring the smoke-free area. For example, an outdoor shopping precinct will be expected to undertake a significant communications campaign, while a community fete may only require signage at the event.

Consultation

Applications should include evidence of stakeholder consultation on a scale that reflects the impact of declaring the smoke-free area. For example, an outdoor shopping precinct will be expected to demonstrate significant community and stakeholder support, while a ticketed event may only need to consult with affected businesses and neighbouring properties.

Evaluation plan

Applications should include an evaluation plan. The evaluation should be conducted either at the conclusion of the smoke-free declaration, or at regular intervals in the case of long-term declarations. The evaluation should include an analysis of the effectiveness of the smoke-free area, the number of compliance and enforcement activities, feedback from patrons and community stakeholders, any unintended consequences and recommendations for future or similar declarations.

Applications should be addressed to:

**The Manager
Tobacco Control Unit
Drug and Alcohol Services South Australia
75 Magill Road
Stepney SA 5069**

and sent via email to HealthDASSATobaccoControlUnit@sa.gov.au

It is recommended that applicants contact the Tobacco Control Unit, Drug and Alcohol Services South Australia on telephone (08) 7425 5000 to discuss a proposed smoke-free area before submitting an application.

Declared smoke-free areas are made at the discretion of the Minister and the South Australian Government. A declaration will only be made once an applicant has satisfactorily addressed the requirements for a smoke-free area.