

LOCAL PLANNING POLICY: RESTRICTED PREMISES – SMOKING



Legislation / local law requirements	This Policy has been prepared under the provisions of Schedule 2, Part 2 and 3 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Relevant delegations	16.1.1 Determination of various applications for development approval under the City's Local Planning Scheme.
Related policies, procedures and supporting documentation	<ul style="list-style-type: none">• <i>Tobacco Products Control Act 2006</i>• <i>Tobacco Products Control Regulations 2006</i>• <i>Medicines and Poisons Act 2014</i>• <i>Liquor Control Act 1988</i>• <i>City of Vincent Public Health Plan 2020 – 2025</i>• <i>City of Vincent Waste Strategy 2018 – 2023</i>• <i>City of Vincent Local Government Property Local Law 2021</i>

PRELIMINARY

INTRODUCTION

Tobacco smoking has significant detrimental impacts to the health and well-being of the community, both directly from the persons who are active smokers and indirectly from those who suffer the effects of environmental, or 'second-hand', tobacco smoke.

Smoking is a leading cause of preventable death and disease in Australia and there is no safe level of exposure to second-hand smoke as all exposure carries risk. Within the City of Vincent's Public Health Plan 2020–2025, a priority health outcome is 'Reduced smoking' focusing on prioritising and embedding public health principles into City policies and planning processes.

A reduction in the sale and use of tobacco and tobacco-related products could encourage smoking cessation, reduce relapse for smokers who have quit and prevent uptake of smoking by young people within the community.

Federal and State legislation governs matters such as packaging and advertising for premises whose primary function is the sale or use of tobacco and tobacco-related products. Local government is responsible for tailoring its local planning framework to guide the assessment of these types of businesses.

PURPOSE

The purpose of this policy is to provide guidance on the exercise of discretion on the operations and location of businesses whose primary purpose is the sale of smoking-related implements or the use of tobacco and tobacco-related products on site.

OBJECTIVES

This policy seeks to:

1. Reduce the number of businesses whose primary purpose is the use of tobacco and other products to be used for smoking;
2. Reduce the promotion of tobacco and smoking within the City;

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3. Ensure that any businesses whose primary purpose is the sale of tobacco and other products to be used for smoking are located in such a manner that they would not negatively impact on the amenity of the area, including the public realm and the surrounding existing land uses, by means of associated emission of harmful smoke and/or vapours, noise, odour or anti-social behaviour;
4. Ensure business and advertising signs do not promote the sale of tobacco and other products to be used for smoking, smoking-related implements or the use of tobacco or smoking on site; and
5. Ensure businesses that include the sale or use of tobacco and other products to be used for smoking maintain an active and engaging street frontage by means of clear sight lines and visual surveillance between the street and the business.

SCOPE

The provisions of this policy apply to uses whose primary purpose is the sale of tobacco, smoking-related implements or the use of tobacco and tobacco-related products on site.

This policy does not apply where 'Restricted Premises' or 'Shop' uses are exempt from the need to obtain development approval in accordance with the City's Local Planning Scheme No. 2.

POLICY PROVISIONS

DEFINITIONS

Restricted Premises (Smoking) means a 'Restricted premises', as defined by Local Planning Scheme No. 2, used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of smoking-related implements.

Shop (Tobacco) means a 'Shop', as defined by Local Planning Scheme No. 2, whose primary purpose is the sale by retail of tobacco products and/or smoking-related implements. These may include, though are not limited to:

- a) Tobacco Shops; and
- b) Tobacconists.

Smoking Premises means any premises whose primary purpose is the use of tobacco and other products to be used for smoking. These include:

- a) 'Shisha' Bars; and
- b) Cigar Lounges.

The following definition is not defined in the Planning and Development (Local Planning Scheme) Regulations 2015 and is provided to guide the application of discretion.

Smoking-related Implements means any smoking implement which may be used for smoking tobacco or tobacco-related products. These include:

- a) Cigarette papers;
- b) Cigarette rolling machines;
- c) Pipes; and
- d) Other things designed to be used in the process of smoking a tobacco product or preparing a tobacco product for smoking.

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POLICY

1. General Requirements

- 1.1 Restricted Premises – Smoking, Shop (Tobacco) and Smoking Premises uses will only be considered where they are not adjoining or adjacent to Home based businesses, Child care premises, Educational establishments, Family day care, Consulting rooms, Medical centres, Offices, Places of worship, Reception centres, Restaurants/cafes, Aged or dependent persons dwelling, Bed and Breakfast, Betting agency, Caretakers' dwelling, Cinemas / Theatre, Corrective institution, Dwelling (grouped), Dwelling (multiple), Dwelling (single house), Fast food outlet, Funeral parlour, Holiday Accommodation, Hotel, Lunch bar, Market, Motel, Recreation – private, Residential building (whether temporary or permanent), Serviced apartment under the City's operative local planning scheme and where the proposed development (lot) is not an adjoining property to the following Local Planning Scheme and Metropolitan Region Scheme reserves:
- Public Purpose;
 - Public Open Space; and
 - Parks and Recreation
- 1.2 Restricted Premises – Smoking uses will only be considered where they are not on the ground floor of a premises.
- 1.3 Restricted Premises – (Smoking), Shop (Tobacco) and Smoking Premises uses must not directly display products for sale or use, nor have them visible from the street.

2. Signage

- 2.1 Restricted Premises – Smoking and Smoking Premises uses must comply with the City's Local Planning Policy – Signs and Advertising.

3. Business Operations

- 3.1 Restricted Premises – (Smoking), Shop (Tobacco) and Smoking Premises uses are limited to the hours of 7:00am to 10:00pm Monday to Saturday and between the hours of 9:00am to 10:00pm on a Sunday and public holidays.
- 3.2 A detailed Management Plan is required for Smoking Premises or other premises whose business primarily involves the use of tobacco or tobacco-related products on site. The Management Plan is to be submitted as part of a development application and is to address the following:
- Noise control and management, including the provision of an acoustic assessment prepared by an Acoustic;
 - Consultant/Engineer with relevant qualifications and experience;
 - The number of patrons;
 - Car parking and parking management;
 - Hours of operation;
 - Patron and anti-social behaviour;
 - Complaints management procedures;
 - Rubbish collection and disposal; and
 - Odour and air quality management assessment.

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CITY OF VINCENT

OFFICE USE ONLY	
Responsible Officer	Manager Policy & Place
Initial Council Adoption	13/12/2022
Previous Title	N/A
Reviewed / Amended	N/A
Next Review Date	December 2027