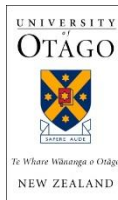


Smokefree Wellington: Context, options and evidence



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Otara town center¹

‘It’s crucial that there are smokefree, family-friendly public environments available for people to use and enjoy, and that we can set a good example for our children and youth by providing the opportunity to grow in safe and healthier environments.’²

New Zealand Associate Minister of Health, Damien O’Connor, December 3, 2003

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Summary

Context for smokefree outdoor policies in Wellington

Less than one in ten (9.5%) adults in Wellington City smoke, and about one in eight (12.8%) in the Wellington region, compared to about one in six (17%) for New Zealand.

New Zealand survey results indicate that well over 80% of people would like smokefree playgrounds and smokefree entrances to buildings that the public use. Smaller majorities support smokefree outdoor dining areas, sports fields, or music or community events.

The normality of smoking in New Zealand is affected by the visibility of smoking, the number and proximity of retail outlets, the widespread visibility of tobacco branding on packs, and by role models.

The spread of smokefree outdoor policies internationally and in New Zealand

In contrast to New Zealand, nearly all smokefree outdoor policies elsewhere are enforceable when necessary by law. Such policies are widespread in Australia and North America for building entrances, transport waiting areas, dining and drinking areas, parks, playgrounds and beaches. In the USA and Australia a number of cities are developing smokefree pavements and streets. In New Zealand over 70% of local authorities have some 'educational' outdoor smokefree policies – these are not enforceable by law. A few New Zealand cities are developing smokefree pavement policies for small areas.

Policy options for smokefree and tobacco-free activity

Smokefree outdoor policies can be separated by:

- Type of place
- Extent of local or central government involvement
- Extent of investment and effort in policy implementation

Smokefree outdoor policies can be achieved through licence and lease conditions (eg, for pavement area leases). Local authorities could hold referenda on smokefree policies for areas (eg, a shopping centre). Smokefree outdoor policies require investment in the communication of the policy and its rationale, even when the policy is backed by law. Enforcement of smokefree outdoor policies overseas is largely by verbal information and warnings by officials, with fines relatively rare.

Beyond smokefree policies, there are options for tobacco-free events and areas (where no tobacco is allowed), and not allowing tobacco retailing in particular areas.

Evidence for smokefree policy investment

There is increasing New Zealand and international evidence that the normality of smoking at a neighbourhood or community level is related to the likelihood of starting smoking or having difficulty in quitting. There is some evidence that the decreased acceptability of smoking is associated with decreased tobacco consumption and with increased success in quitting, and that smokefree outdoor policies increase quit attempts at a population level.

Possible principles for the Wellington City Council

To align the City's approach to policies for smokefree outdoor places with:

- Making the city child and family friendly
- Increasing the quality of life of residents
- Improving the experience of visitors
- Improving the environment and ecology of the city and its harbour
- Making savings from reduced litter

Options for the Wellington City Council

These include:

1. To introduce further 'educational' smokefree outdoor policies, along with investment in the communication of the policies and their rationale.
2. To use the City's powers and fulfill the City's duties under the Health Act 1956 by creating bylaws for smokefree outdoor policies. The bylaws could require: i) minimum smokefree distances from openings in buildings used by workers and the public, (ii) all outdoor public eating and drinking areas to be smokefree, (iii) smokefree transport waiting areas, (iv) smokefree zones within 10 metres of playground equipment used by the public, (v) smokefree pavements within 15 metres of school and hospital gates, driveways and other entrances.
3. To require smokefree policies for events held on City land, or run by the City.
4. To investigate and plan for smokefree shopping pavement areas throughout the City, and particularly for the whole of the Central Business District.
5. To hold referenda to enable residents to decide on the nature and extent of smokefree outdoor policies for public places that they wish to have in their area.
6. To advocate to central government for better smokefree legislation.

New Brunswick (Canada) sign³



1. Introduction

This report expands on the problem, needs and some local solutions involved in protecting children and others from smoking normalisation and from secondhand smoke (SHS). While the public policies discussed will also have positive flow-on effects for reducing smoking in ‘private’ areas (ie, where the public does not have access, or where smoking has no immediate effects on the public) this report is about public areas, or behaviour that is public (can be seen by the public).

Smoking normalisation is the effect of seeing smoking, tobacco retailing and other cues for smoking (eg, ashtrays), the portrayal of smoking in the media (including internet media) and of knowing smoking occurs and that tobacco products are available in particular places. The normalisation affects the social norms about smoking and tobacco products, the shared expectations of appropriate and desirable behaviour. Denormalisation is the decrease of visible or expected smoking and tobacco availability. Norms and denormalisation are mentioned at various stages in this report, with particular evidence in sections 2.4.2 and 2.4.3.

E-cigarettes

‘Smokefree’ in this report also includes being free of addictive recreational nicotine products. In the absence of registration of e-cigarettes in New Zealand as cessation aids, and until the regulatory issues on non-smoker access, marketing and normalisation have been resolved; ‘smokefree’ is taken to cover e-cigarettes.⁴

Wellington and its context

Wellington City had an estimated population in 2014 of 200,000. The city is part of the Wellington urban region (which also includes Porirua, Hutt and Upper Hutt cities, and Kapiti District Council – with a combined urban region population of 433,600). The business and entertainment center of that region is the Central Business District (CBD) of Wellington City. Thus some of the options and evidence are for that CBD, because of its influence on the city and region. For the purposes of this report, the general area of the CBD is shown in Figure 1, p.7.

Report aim: To inform smokefree outdoor policymaking in Wellington City

Objectives

- To provide information on options for smokefree outdoor areas
- To provide evidence to inform decisions on investment in smokefree policies by all stakeholders (public organisations, non-profits, businesses and others).

Methods

This is largely a literature review, although some reference is made to primary documents.

Viewing format

For the best views of figures, this document should be printed in colour.

2. Results

The results cover both current New Zealand and international activity and examples, and the examination of possible options for the future in Wellington. Sections below provide material on:

- The context of attitudes and other determinants for smokefree outdoor policies in New Zealand (s.2.1). Some of this may be also be seen as evidence for smokefree policy investment.
- New Zealand and international activity and examples (s.2.2)
- Policy options for outdoor areas (s.2.3)
- Evidence for smokefree outdoor policy investment (s.2.4).

2.1 The context of smoking prevalence and attitudes to smoking/smokefree policies, and other policy determinants

This section covers smoking prevalence (the proportion of a resident or daily population who smoke), prevalences in particular places in Wellington, public *perceptions* of smoking prevalence and SHS exposure (s.2.1.1.) It then looks at the drivers of policy change such as attitudes (s.2.1.2) at some obstacles to change (s.2.1.3) and at aspects of the politics of outdoor smokefree policies (s.2.1.4). Cigarette butt litter is covered in section 2.4.8

2.1.1 Smoking prevalence, point prevalence, perceptions and SHS exposure

Smoking prevalence

The prevalence of smoking, as self-reported to the 2013 census, was 9.5% for Wellington City.⁵ However, this is those *resident* in the city, and the prevalence of smoking by all people in the city will be also determined by smoking by those coming into town for work, social or other reasons. The prevalence of smoking for the Wellington region in 2013 was 12.8%,⁶ and for New Zealand about 17%.⁷

The prevalence of *visible* smoking in Wellington City will differ from that of the resident and visiting population, because population groups vary in mobility and their ability and need to be outside in public. How much smoking is there outdoors in public places in Wellington City? A 2010 study observing smoking *incidence* (ie, number per time period) in the Golden Mile (from the Railway Station to Courtney Place) found 932 smokers during 21 hr of walking, an average of 7 smokers every 10 minutes.⁸

Smoking prevalence for particular places and for vehicles

Fragmentary research provides smoking point *prevalences* for some places or types of places. Point prevalence is the proportion of people smoking at a particular time (eg, those that can be see smoking in a particular area while watching for a short time). The point prevalence observation methods used in Wellington have used scanning periods of between 30 seconds and 10 minutes.

During Wellington City observations in 2011-12, no smoking was seen in playgrounds (although butts were found). While the data in Table 1 below indicates an outdoor *point* prevalence of about 3-4%, the small amount of data means this is only indicative. However, it is supported by data from the same types of sites across New Zealand.⁹

Table 1: Point prevalence of people seen smoking in Wellington City outdoor areas in April, November and December 2011, and January-February 2012

Type of site	Number of sites	Total people	Children	Smoking	Adult point prevalence
Shopping streets, pedestrian areas	11	1313	48	51	4%
Parks or playgrounds	6	542	98	6	1.4%
Transport waiting areas	3	111	1	7	6.3%
Total	20	1966	147	64	3.5%

Larger amounts of point prevalence data was gathered in 2013 and 2014 for areas outside of bars. In April 2013, at 14 downtown bars/cafés, of 2600 people, 15.8% were observed smoking (95% confidence interval (CI): 14.5%–17.5%); 18.5% in the evening (95% CI: 16.8%–20.4%) compared to 9.1% at midday (95% CI: 7.2%–11.4%). The places had both an alcohol licence and a pavement lease serviced area in use between the hours of 11 am and 11 pm.¹⁰

In a second study during March 2014, of 19,189 patrons at 55 CBD bars/cafés, 1357 smokers were observed – 7.1% (95% CI: 4.9–9.2%). This was a wider sample, of all places in three CBD areas with outdoor tables visible from the footpath. The point prevalence was highest at Courtenay Place (13%), followed by Cuba Street (12%) and the Waterfront area (3%).¹¹

The 2013 bar/café outside area data was also used to calculate and map the visibility from Wellington streets of smoking *at those 16 places* (ie, not counting any *other* smoking visible from streets). In the evenings (7-8 pm), the average across Wednesday and Friday ranged up to 92 visible smokers (mean = 1.44). Estimated visible smoking at midday ranged up to 13 (mean = 0.27). There were more visible smokers at the end of the week compared with midweek.¹⁰ The visibility of the smoking at the 16 bar/cafés in evenings is indicated in the map in the next page (Figure 1).

A 2013 study of smoking at bus stops in Wellington and Lower Hutt found 112 smokers in 27 hours of observation. Where there were enclosed shelters, a third of the smoking was inside the shelter. For 50% of the time, the smoking occurred when people judged to be under the age of 20 were present. ‘An average of 6.3 adults and 3.8 young people were present at the bus stops while smoking occurred, at average minimum distances of 1.7 and 2.2 m respectively.’¹²

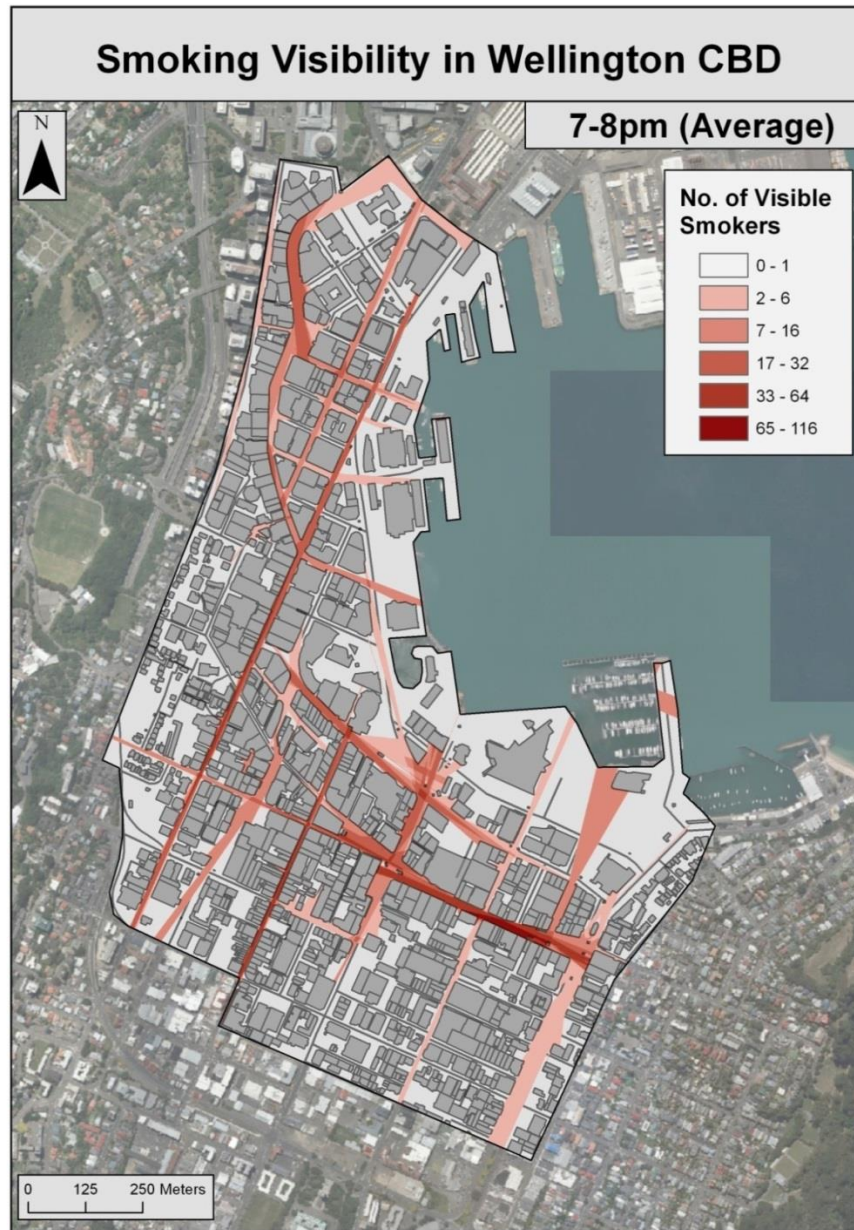
The visibility of smoking is also driven by smoking in vehicles. In 2005, the point prevalence of smoking in 6000 vehicles was 3.9% across at three locations in the Wellington CBD.¹³ In Karori, it was 2% in 2005 and 1.2% in 2011.^{13, 14} The point prevalence in the low income area of Wainuiomata (within the Wellington region but outside Wellington City) was 6.4% in 2006 and

3.4% in 2013.¹⁵ These data indicate that across different socio-economic areas in Wellington City the average 2013 point prevalence of smoking in vehicles would be between 1-4%.

Perceptions

In New Zealand and internationally, the public *perception* of the prevalence of smoking is usually about double the actual prevalence. In New Zealand, the perceived prevalence was 36% in 2012, compared to the 17% daily smoking prevalence found by the 2011-12 New Zealand Health Survey.¹⁶

Figure 1*



*Average estimated visibility (from all public areas) of smoking occurring at 16 hospitality pavement leases in Wellington CBD (average of Wednesday and Friday estimates)¹⁰

Exposure to secondhand smoke in Wellington City and the Wellington region

A number of studies have measured the extent of SHS outdoors in Wellington and in the Wellington region, and the effects of that outdoor SHS on *indoor* air quality. These studies use monitors which measure fine particles (pm2.5) as a proxy for tobacco smoke. Fine particles are much more likely to penetrate deep into lungs.

The drift of SHS from Wellington outdoor hospitality areas has been shown to result in significantly higher mean pm2.5 levels in adjacent *indoor* areas (34 mg/m³) compared to that in outdoor ambient air without tobacco smoke (22 mg/m³). The levels in adjacent indoor areas were not significantly different from those in outdoor areas with smoking.¹⁷ This confirmed the findings of an earlier study, which found mean levels up to 192 mg/m³ in outdoor areas and 117 mg/m³ in adjacent indoor areas.¹⁸

The measurement of fine particulates on the Golden Mile found significantly higher levels when smoking was observed than when it was not (9.3 vs. 6.3 mg/m³).⁸ A larger study in Lower Hutt shopping streets found lower levels, but still significantly higher levels when smoking was observed than when it was not (7.9 vs 4.8 mg/m³)¹⁹

2.1.2 Drivers of policy change

The drivers of policy change include knowledge about and attitudes to secondhand smoke (SHS), knowledge about smoking denormalisation, and the ‘child effect’ (regards for impacts on children). Other factors such as costs and environmental effects are covered in section 2.4.

Knowledge about SHS effects in New Zealand

In 2006 the US Surgeon General reported that the evidence ‘indicates that there is no risk-free level of exposure to secondhand smoke’.²⁰ In New Zealand, a 2003 survey found 91% agreed with the statement ‘people’s health can be damaged by other people’s tobacco smoke’.²¹ However, this may be deceptive, in that the depth of knowledge may be small. In a 2000 survey of Wellington region bar and restaurant staff and owners, only 55% gave a definite ‘yes’ to the question ‘do you think that other people’s tobacco smoke in the air can shorten people’s lives?’ and 31% were aware of the risk of strokes from SHS.²²

Attitudes to outdoor SHS and smoking in New Zealand – survey evidence

Public attitudes depend on the type of location, and how the survey question is designed. Where children are mentioned in the survey question, responses often give more support for policies than when the questions do not (see Table 2).

In 2012, when a New Zealand survey asked ‘do you think people should be able to smoke in public outdoor dining areas?’ 54% (CI 51-57%) answered ‘not at all’.²³ However, in response to the statement ‘smoking should be banned in all outdoor public places where children are likely to go’ 73% agreed (60% of smokers).²³ The public perception of ‘places where children are likely to go’ will vary, and for many the question may be about ‘places where *most or many* of the people are children’ such as playgrounds. In this 2012 case above, some survey respondents did not appear to have thought of children when answering about outdoor dining areas. Equally, people do not necessarily consider children may be at sports fields or music or community

events. In 2012, when asked ‘do you think people should be able to smoke at outside sport fields or courts?’, 59% (CI 55-62%) answered no. In 2010, when asked ‘do you think people should be able to smoke at outdoor music or community events and activities?’ 59% said no.²⁴

However, even the mention of children may not have much effect if the association of drinking alcohol and smoking in public outdoor areas is at risk (see Table 2). In response to the statement ‘smoking should not be allowed outside bars and restaurants, in areas that can be seen by children and young people’ 62% agreed in a 2010 survey, but only 33% of smokers.²⁴

Much of these outdoor areas may be within five metres of building entrances. This may not be thought of when people answer questions about smokefree entrances. In response to a 2010 New Zealand survey statement ‘smoking should not be allowed within five metres of the entrance of all buildings used by the public, like shops, office buildings and libraries’ 82% agreed (66% of smokers).²⁴ Note this response is different from that for ‘public outdoor dining areas’ and ‘outside bars and restaurants, in areas that can be seen by children and young people’ (by 28 – 20% respectively). Part of the reason may be that the examples of ‘buildings used by the public’ did not include bars and cafes, so even though the question stated ‘all buildings used by the public’, answers were guided by the examples that *were* given – ‘shops, office buildings and libraries’.

In 2008, when asked if ‘people should be able to smoke ... at outdoor children's playgrounds’ 83% said not at all (71% of smokers).²⁵ When asked if ‘people should be able to smoke ... in town or city squares’ 39% said not at all. New Zealand attitudes may have changed considerably since the 2008 and 2010 surveys, as a 2013 Auckland survey found 64% support for outdoor town centers, 65% support for smokefree footpaths outside local shops, 84% support for smokefree building entrances, 73% support for smokefree outdoor dining, and 70% support for smokefree parks, sports fields and events.²⁶

Table 2: NZ survey responses to proposed policies with and without mentions of children and bars/dining

Question	% support
Smoking should not be allowed within five metres of the entrance of all buildings used by the public, like shops, office buildings and libraries	82 ²⁴
Smoking should be banned in all outdoor public places where children are likely to go	73 ²³
Smoking should not be allowed outside bars and restaurants, in areas that can be seen by children and young people	62 ²⁴
Do you think people should be able to smoke in public outdoor dining areas?	54 ²³
Do you think people should be able to smoke at outside sport fields or courts?	59 ²⁴
Do you think people should be able to smoke at outdoor music or community events and activities?	59 ²⁴

In 2010, an intercept survey (with an 81% response rate) of pedestrians on the Wellington Golden Mile (GM – the major shopping route) asked ‘do you think people should be able to smoke where they want on this street, or only in set areas off the Golden Mile.’ The latter option meant that smoking would only be allowed in designated areas off the GM to ensure that clusters of smokers were substantially displaced from the GM. There was support from 56% of those surveyed.⁸

Attitudes to outdoor SHS and smoking in New Zealand: Qualitative research

Qualitative evidence indicates that some smokers are aware of the link between visibility, acceptability, and reducing smoking prevalence. In a 2012 New Zealand study, there was some indication that smokers or recent quitters:

‘believed restricting the areas where smoking could occur would reduce its perceived normality and acceptability: “I think there shouldn’t also be smoking in CBD areas ... or at least designated parks or bench areas that are clearly marked for smoking ... just to socially change people’s mentality of having the right to smoke”.²⁷

A 2014 study of comments on New Zealand news websites about smokefree outdoor policies found four major themes. One theme was ‘of concerns about smoking in public, including health issues, normalisation of smoking, the risk of cues for ex-smokers to smoke, pollution from tobacco smoke and repugnance towards smoking.’²⁸ Those supporting such policies also stressed the ‘right to clean air’ and the practicality of the policies, as shown by their success overseas.

Other themes found were about the validity of evidence about smoking and SHS harms, ‘rights to smoke’ and unnecessary restrictions on behaviour. There were a number of comments doubting the scientific evidence, with a particular theme ‘that exposure to SHS is harmless and easily avoidable.’²⁸

Evidence of official and political attitudes and policy change to reduce smoking normalisation

Evidence of New Zealand policy change to reduce the normalisation of smoking includes the 2003 legislation for smokefree outdoor area policies in schools and preschools.²⁹ The parliamentary Health Select Committee reported then that ‘we consider that the purpose of the legislation includes preventing young people from being influenced by seeing other people smoke in their place of learning.’^{30p.7} The Associate Minister of Health, Damien O’Connor, said:

‘It’s crucial that there are smokefree, family-friendly public environments available for people to use and enjoy, and that we can set a good example for our children and youth by providing the opportunity to grow in safe and healthier environments.’²

Since 2003, the Health Sponsorship Council (now Health promotion Agency) annual reports have been more explicit in their statements about role modelling. That year, the report mentioned the role modelling of smoking, and efforts so that ‘fewer young people see smoking as a social norm.’^{31p.7} By 2006, the annual HSC mentioned the specific objective of:

‘reducing the number of settings in which young people are exposed to smoking behaviour’ and ‘promoting not smoking around young children in any setting at any time in order to reduce the likelihood of young people taking up smoking.’^{32p.4}

From early 2008, a MoH website appears to link smokefree outdoor places with the need to reduce the example of smoking to children:

‘Many public outdoor public places, including many major stadia are choosing to go smokefree. Some Councils such as South Taranaki and Upper Hutt have made the

decision to make their parks and playgrounds smokefree to help denormalise the behaviour. Research shows the less children see smoking around them, the less likely they are to start.³³

A number of *Dominion Post* editorials have covered the topic of smokefree outdoor places. In 2013 one wrote that the ‘suggestion that smoking be banned from Wellington's Golden Mile is an instance of the anti-smoking brigade going a step too far. ... There is no need to further punish and marginalise the unfortunates who cannot help themselves.’³⁴

In May 2015, an editorial was much more positive:

... ‘there is a strong case for banning smoking in places where non-smokers have to be – where they're stuck, in other words, sucking in second-hand smoke.

That's why it's useful that Wellington City Council, instead of going for a hasty waterfront ban, has widened its review – with bus stops, the Botanic Gardens and Civic Square likely targets.

The case is strongest for bus stops – many people, including children, need to use them, and no-one needs to be standing for 20 minutes in a cloud of smoke. They are a good corollary to sportsfields and playgrounds.

Civic Square and the Botanic Gardens are worth consideration – they are among the city's focal points, where public events are regularly put on. Think of the summer concerts in the soundshell, or the Cricket World Cup festivities in Civic Square earlier this year. Once again, families shouldn't have to cough through these events.

Waterfront bars are another step again – they're often windblown, they're adult spaces and there are usually decent options for non-smokers. The case is weaker here.³⁵

And in September 2015, the *Dominion Post* editorialized:

‘Rather than engaging in a byzantine debate about what is an open space, perhaps the law should just ban smoking in all outdoor areas in and around bars and restaurants. This is what the local and regional councils suggested to the government in July, and a good case can be made. Partial bans, after all, always lead to invidious arguments.’³⁶

Commercial attitudes

The main evidence of Wellington commercial attitudes to smokefree outdoor policies is a 2011 survey of 198 businesses on the Golden Mile. They were asked ‘Do you think people should be able to smoke outdoors along the Golden Mile?’ (yes or no), with 43% saying yes. When asked ‘What impact would making the Golden Mile smokefree have on your business? (positive, negligible or negative)’ 20% anticipating a positive impact and 64% anticipating a negligible impact – ie, over 80% did not think a smokefree street would hurt their business.³⁷ There was more concern from food and entertainment businesses, with significant differences between: (a)

nonfood businesses (90% unconcerned) versus food businesses (64%; $p < .001$); (b) “other businesses” (88% unconcerned) versus entertainment businesses (63%; $p = .001$).

More focused surveys in 2004 and 2005 provide some insight to New Zealand bar managers’ attitudes to anticipated and actual *indoor* smokefree policies, before and after the 2004 smokefree bars law implementation. Between November 2004 and November 2005 the proportion who agreed with the statement ‘I am confident that patrons will respond positively when I ask them to smoke outside’ increased from 37% to 82%.³⁸ Their approval of smokefree bars went from 44% to 60%.

In response to the July 2015 Local Government New Zealand conference remit asking government for smokefree outside areas at bars and restaurants, there have been a range of responses from the hospitality industry. Bruce Robertson of Hospitality New Zealand was reported as saying:

‘It’s probably going further than necessary, it’s a social engineering approach, rather than a health issue.’ ‘While the number of smokers is declining, it’s still around 20 percent that do, I am sure the industry would still want to be able to give that opportunity to their customers.’³⁹

In another media outlet he was reported as saying:

‘it was “pretty discriminatory” to single out bars and restaurants. “We believe it should be the members choice, really, to allow smoking or not,” he said. Patrons were not at risk of second-hand smoke outside as much as they were inside. “It’s hardly going to impact on other people’s health outside”’⁴⁰

Other hospitality people were quoted in the article with different views:

‘Wellington’s Southern Cross Garden Bar and Restaurant bar manager Andrew Watson said the ban was a “natural progression”. “It’s how society’s going in regards to smoking.” There would likely be backlash to the decision, but expected it to die away as it did when smoking was banned inside bars and restaurants, Watson said.

“I think now everyone agrees it was the right idea.” He thought business might be affected, but only for a “couple of months”, as people “aren’t going to stop going out”.

Federal Delicatessen and Depot in Auckland offer designated smoking areas outside. Restaurant manager Warren Ford said he had worked in other places that enforced a smoking ban. “People will just spark up away from the restaurant,” he said.’⁴⁰

In response to a May 2015 proposal for smokefree Wellington waterfront, bar owner Jeremy Smith was reported:

‘If a ban was to be introduced, it should be city wide. "It's just another nail in the bar/restaurant coffin in terms of driving people away from areas where they can socialise".’⁴¹

See s.2.4.7 for evidence about smokefree policy effects on the hospitality industry. This includes a link to a video by the co-owner of the HIP groups of restaurants in Auckland, which has 100% smokefree outdoor areas for all its premises.

Other smoking normalisation factors

There is an indirect influence on the perceptions of smoking normality from the retail availability of tobacco products,^{42, 43} from the widespread presence of tobacco branding on tobacco product packs (either in use or as litter),¹¹ and from the presence of tobacco industry representatives and facilities. There are over 5000 tobacco retail outlets in New Zealand.⁴⁴ The Imperial tobacco factory in Petone is approximately 10 kilometers from the Wellington CBD, and several hundred people work there. The factory exports the large majority of its products to Australia and the Pacific.⁴⁵

There is normalisation when community and national role models are seen to smoke, or are known to smoke. In New Zealand in 2006, only 12% of teachers reported being smokers, but 47% of kohanga reo staff.⁴⁶

2.1.3 Obstacles to urban outdoor smokefree policies

There are obstacles at a number of levels. At a fundamental level there is the addictiveness and normality of smoking, and the nature of the tobacco industry. While there are commercial incentives to sell tobacco, the tobacco industry will organise and support opposition to smokefree policies.

The arguments against smokefree outdoor policies include that they exclude and stigmatise smokers, and may be unjustified extensions of state or local government control into personal behaviour (unjustified, because of the apparent lack of *immediate* health hazard).^{47, 48} The three commonest reasons, in an Upper Hutt survey of park users, for opposing a smokefree parks policy were: ‘smoking outdoors is acceptable’ (50%), ‘smokers should have the right to autonomy’ (26%), and ‘the policy won’t work or cannot be enforced’ (12%).⁴⁹

At a more immediate level, demonstrated public support for change is usually needed to encourage policymakers to act.⁴⁷ If regard for children is a significant potential driver of policy change, this driver may be hindered by a lack of institutions to give it any effect. Children do not vote, or have the money to lobby or influence policymakers. Ideologies in some countries oppose action to protect children as government interference or reducing the rights of adults,⁵⁰ and this may apply in New Zealand.⁵¹

When smokefree outdoor policies were first introduced in New Zealand in the 2006-2007 period, common reactions from local councillors were that there was ‘too much of this social engineering thing going on’, that councils ‘could not force people to abandon personal choice’ and such policies reduce ‘smokers to social lepers’ and were ‘a sign of a ‘Big Brother’

mentality'.⁵²⁻⁵⁴ A 2013 New Zealand study found that at local authority level the issues in some places included a perceived lack of public, councillor or staff support, the costs involved, and concerns about reduced park usage by smokers.⁵⁵

2.1.4 The politics of smokefree policy change

Besides ideological beliefs about individual choice and the rights of children, the public good and the role of government;^{56,57} smokefree politics are affected by the framing and narration of the issues.⁵⁸ Also important are perceptions of practicality, the perceived public support, and any need for spending political capital.⁵⁹⁻⁶¹

Some policymakers will ask for stronger evidence of the modelling effects from adult smoking. Others will be satisfied with existing evidence, due to their preference for taking a precautionary approach, and the general evidence around how children copy a wide range of adult behaviours. Some evidence about smoking normalisation and denormalisation effects is given in section 2.4 below.

In New Zealand, a 2013 study found that letters from and contact with health advocacy groups (including submissions) was reported by council staff as a significant factor 'influencing councils to consider or introduce a SFOA policy.'⁵⁵ Other factors included 'having a champion Councillor or council staff member'.⁵⁵ Of those councils surveyed 'two-thirds ... worked with their local District Health Board or Public Health Unit, [and] nearly half worked with the Cancer Society of New Zealand.'⁵⁵

A 2007-2008 study of city councillor attitudes in Wellington City, Porirua and Lower Hutt to outdoor smokefree policies found of those interviewed, 86% agreed 'that outdoor smoking would affect role modelling to children' and 76% that it would increase litter. However there was less agreement on the issues of pollution, health, and annoyance. There was a low knowledge of these impacts. Few councillors knew of the outdoor smokefree policies elsewhere in New Zealand (38%) and only 19% knew of the Upper Hutt smokefree parks policy nearby.⁶²

Smokefree outdoor area policies have diverse drivers, and besides health advocates, other groups have been strongly involved in some developments. For instance, in Whanganui, the retailer organisation Mainstreet Whanganui has been a major player in creating smokefree downtown outdoor policies. The Local Government New Zealand (LGNZ) conference in July 2015 'strongly supported' LGNZ requesting that central government 'develops and implements legislation to prohibit smoking outside cafes, restaurants and bars'.⁶³

In New Zealand and elsewhere, a particular advantage of adopting outdoor smokefree policies is that they can be implemented by local governments, and may not need to wait for central government action. Local governments can have several advantages for health protection. They are usually closer to voters compared to national governments, and thus more accessible, and the policies may have greater legitimacy. At a point where sufficient local governments have policies, this may lead to central government adopting the policies.

2.2 New Zealand and international activity and examples of smokefree outdoor policies



<https://www.facebook.com/pages/Lets-Make-Palmy-Smokefree/239734059529295>

As a health intervention, smokefree outdoor area policies are relatively new. They have been increasing in number and geographic scope since the 1990s, but particularly since about 2000. Outside of New Zealand such policies are generally enforceable by law. In New Zealand and around the world, both the perceptions and reality of smokefree activity are increasing. In the USA, the overall proportion with the perception that the parks in their community were smokefree rose from 8% in 2000 to 24% in 2008.^{64, 65}

This section principally covers two types of areas:

- (i) Where people may be within a few meters of each other (smokefree building entrances, transport areas, bar/café/restaurant patios, pavements, events, and stadia and other outdoor massed seating areas); and
- (ii) Where people may be more dispersed (parks, zoos, beaches, educational campuses, hospital grounds and parking lots). The density of people in some other types of areas (eg, playgrounds, outdoor workplaces) may vary.

A more detailed separation of types of places that could be smokefree includes:

- (i) Where alcohol is served to the public (eg, bar/café/restaurant patios);
- (ii) Where secondhand smoke (SHS) may be an immediate issue, and/or where people may be within a few meters of each other (eg, building entrances, transport waiting areas, downtown pavements, events, and stadia and other outdoor massed seating areas). Some ways of considering such places include proximity to smokers, degree of containment/enclosure, ability to define an area, and access to fresh air;
- (iii) Where people may be more dispersed (eg, parks, sports/recreation fields/facilities, zoos, beaches, educational campuses, hospital grounds and parking lots);
- (iv) Where the density of people may vary, but where there may be particular considerations of child or worker protection (eg, playgrounds, outdoor workplaces);
- (v) Where cultural or other considerations means smoking may not be appropriate, and
- (vi) Whole areas (eg, a shopping centre, or the Central Business District).

After general coverage of types of smokefree areas (sections 2.2.1 – 2.2.5) s.2.2.6 covers current Wellington City Council smokefree policies, and s.2.1.7 covers tobacco-free areas.

2.2.1 Smokefree outdoor dining and drinking areas

A number of jurisdictions in Australia, North America and Europe have smokefree dining and in some case smokefree drinking outdoors.⁶⁶ There has been 100% smokefree outdoor dining in New South Wales since July 2015. This requires no smoking within 4 metres of a seated dining area and the doorways of licensed premises, restaurants and cafés, and no smoking within 10 metres of a food fair stall.⁶⁷ Queensland has smokefree dining.⁶⁸ South Australia will have 100% smokefree outdoor dining in 2016, three other states have partial outdoor smokefree policies, and Victoria is planning their policy.⁶⁶

In the USA, Hawaii, Maine, Michigan, and Washington State, and over 170 cities have 100% smokefree policies for outdoor dining and bar patios.⁶⁹ In Canada, Alberta, Newfoundland and Labrador, Nova Scotia, Ontario and a number of cities such as Vancouver have 100% smokefree bar and dining patios.⁷⁰

In nearly all these jurisdictions, enforcement is largely the responsibility of premise owners and managers, as is the case for hospitality areas indoors in New Zealand.⁶⁶ Further detail and information on the practicalities and other aspects of smokefree dining can be found in the Cancer Society (Auckland) 2014 report.⁶⁶ Evidence on the effects of smokefree outdoor drinking policies and on the wider issues of alcohol with smoking is given in section 2.4.4.

2.2.2 Other smokefree policy examples for where people are relatively close

These are generally places where SHS may be an immediate issue, and/or where people may be within a few meters of each other. The types of places where a number of jurisdictions have adopted policies to reduce SHS going into buildings, or affecting people nearby include:

- At or within a specified distance from queuing and gathering areas: eg, for bus and other transport waiting lines, cash machines, and ticket lines.
- Within a specified distance from building openings: doors, windows, and air intakes.
- Stadia and other outdoor areas where seating is close. These may be for particular events, but are usually for all events and times.
- Pedestrian areas: There can be some overlap with smokefree policies for near building openings. Both pedestrian areas (pavements, pedestrian malls, squares) and street areas which include roads have been made smokefree. While exposure to SHS may be temporary, the closeness to smoking pedestrians (often less than a metre) can be a policy driver.

A number of such policies are widely used in the USA, including for entrances (Washington State, Oregon, Illinois, Indiana, North Dakota, Hawaii, Utah and New Mexico and many cities in the USA (eg, San Francisco)⁷¹⁻⁷⁵ and transport waiting areas (eg, New York State, Wisconsin and Iowa and over 400 cities).⁷⁶ In Canada six provinces require smokefree areas around doorways and windows in buildings used by the public,⁷⁰ Four provinces and over 40 cities require smokefree transport waiting areas.⁷⁰ In Australia, Queensland,^{77, 78} and New South Wales have smokefree entrances for all non-residential buildings that the public use.⁷⁹ New South Wales has had smokefree railway platforms, light rail stops and stations, bus stops, taxi ranks and ferry wharves since 2013.⁸⁰

Since the 1990s, limited outdoor smokefree policies have been introduced in small street areas in cities in several countries.^{76, 81-83} In California, a 2012 study found 56 cities with smokefree policies for at least five of seven outdoor public areas (dining areas, around doors and windows, public events, recreation areas, service areas (eg, bus stops, ATM lines, ticket lines), sidewalks and worksites. All but two cities had adopted the policies since 2006.⁸⁴ In Australia, since 2006 six of eight states and territories have adopted laws for significant outdoor public areas (to be implemented in 2016 in one state).⁸⁵ However, there appear to be only three cities worldwide that regulate for almost complete public outdoor smokefree places, all in Southern California, and all under 110,000 in population.⁸⁴

Perth City pavement sign⁸⁶



In Australia, there are a number of examples of smokefree area bylaws for parts of CBDs. Generally, there are 2 or more blocks of a pedestrian mall smokefree:

- Brisbane: 2 blocks of the main (pedestrian) shopping street, plus a cross street
<http://www.brisbane.qld.gov.au/laws-permits/laws-permits-businesses/queen-street-valley-malls-management/queen-street-mall/queen-street-mall-smoking-ban>
- Perth: three pedestrian malls, Hay and Murray Street malls and Forrest Place.
- Sydney: Martin Place <http://www.cityofsydney.nsw.gov.au/community/health-and-safety/smoking-in-public-places>
- Melbourne – 4 densely used pedestrian malls (laneways) in the Central City; Block Place, Howey Place, Equitable Place and The Causeway
<https://www.melbourne.vic.gov.au/CommunityServices/Health/Pages/SmokingTobacco.aspx#areas>

- Hobart: since 2010: Elizabeth Mall, Wellington Court, Hobart Bus Mall
[http://www.hobartcity.com.au/Environment/Public Health and Food/Smoke Free Public Places](http://www.hobartcity.com.au/Environment/Public%20Health%20and%20Food/Smoke%20Free%20Public%20Places)
- Adelaide: Rundle Mall: since 2012

Whangarei, Hamilton, Whanganui and Palmerston North councils have recent smokefree policies for sections of pavements or larger areas. Otara and Botany town centres in South Auckland have developed policies since 2009.

Auckland has one of the most developed New Zealand strategies for smokefree outdoor areas. In 2015 they plan to have Auckland slow speed (shared pedestrian and vehicle) streets smokefree, including Darby Street, Lorne Street, Fort Street, Jean Batten Place, and Fort Lane. By 2018, they plan to have all 103 Auckland shopping centres smokefree.⁸⁷

2.2.3 Policy examples for where people are more spread out

Denormalisation, the reduction of cues for smoking and the reduction of smoking examples to children may drive smokefree policies where people are further apart. Other contributing factors may include litter and fire risk. The types of places include:

- Recreational areas: parks, sports grounds, beaches, zoos.
- The grounds of institutions: hospitals, schools, universities, local authority facilities.
- Parking lots

In the USA a number of states and/cities require smokefree parks, beaches and zoos,⁷⁶ and in Canada a number of cities require smokefree outdoor events, hospital grounds, parks and/or playgrounds.⁷⁰ In New Zealand, the grounds of all schools, pre-schools and kohanga reo have been required by law to be smokefree since 2004.²⁹ In tertiary education, the policies depend on each institution, and research indicates that most (26 of 29 surveyed) have some policy. Only nine were found to have '100% smoke-free campuses without exceptions and few prohibited the sale of tobacco on campus, or connections with the tobacco industry.'⁸⁸

In New Zealand, a 2013 study found that 47 of 67 local authorities had smokefree outdoor policies. The types of locations covered included sports grounds, parks, playgrounds, around council buildings, some shopping footpaths and some pedestrian shopping malls.⁵⁵ However, to date these are implemented by education and communication, and none are enforceable by bylaws (Palmerston North and Auckland will be considering bylaws in 2015-16).

New policies are continually being added, for instance with Kawerau District Council adopting a smokefree policy for footpath areas within 10 metres of school gates.⁸⁹ For further detail of New Zealand local authority outdoor policy experiences outside of Wellington, see Appendix 2.

2.2.4 Places where particular considerations of child or worker protection

A number of places where there is a perception that there are a significant proportion of children, or a significant *number* of children, can be made smokefree. Besides playgrounds and sports

grounds, other recreational areas such as zoos and parks can be perceived as places where the protection of children outweighs other factors. ‘Family friendly’ may be another way of describing such places.

Outdoor workplaces where some jurisdictions require smokefree policies include construction sites⁷⁰ and hospitality areas (as above – s.2.2.1).

2.2.5 Places where cultural or other considerations means smoking may not be appropriate

Cemeteries, urupa and other wahi tapu may have smokefree policies set by the public or other owners of the places. Informal policies in New Zealand include some urupa (cemeteries) where local custom requires tobacco products not to be brought into the area. There is a potential for other areas to be smokefree, such as marae, church grounds, sacred mountain and hill tops, and battlegrounds. Smokefree policies are being developed by the Tūpuna Maunga o Tāmaki Makaurau Authority for the 14 maunga (volcanic cones) in Auckland City.

2.2.6 Wellington City smokefree policies

Council housing

The WCC has ‘around 2200’ social housing units.⁹⁰ A WCC officer’s report on another matter in 2012 mentioned that ‘in response to queries from residents and property damage from smoking, Council is making communal areas of its apartment complexes smoke-free, including children’s play areas, corridors and stairwells; and has decided to make Regent Park the first complex where the units will be smoke-free.’⁹¹

In 2015 the WCC declared ‘all communal areas in its housing complexes smokefree’, including ‘all entranceways, hallways, stairways, mailrooms, service areas, laundry rooms, stairways, gardens, playgrounds and car parks’.⁹² This policy was partly based on an analysis by the WCC Housing staff in 2012 which ‘looked at the health issues for tenants and also the impact on the Council’s assets of smoke damage, cleaning, and smoking-related fires, over a five year period.’ The WCC ‘has a long term goal of its housing becoming smokefree by 2025’.⁹²

Policies for other outdoor areas

During September 2009 – January 2010 a Wellington City Council (WCC) e-petition for a smokefree Golden Mile (Lambton Quay, Willis Street, Manners Street/Manners Mall and Courtenay Place) attracted 672 signatures.⁹³ It was received by the Strategy and Policy Committee but no action was taken. An opposing e-petition attracted 40 signatures.⁹⁴

In January 2012 Hiroshi Yoshikawa initiated a WCC e-petition to ‘Prohibit smoking of cigarettes within Wellington Central City except for approved areas provided for smoking members of the public’. The staff report on the petition stated: ‘Prohibiting smoking in the city centre is not recommended as a ban would be very difficult to enforce. Smoking is a legal activity and it is questionable whether a ban would be able to withstand a legal challenge. A ‘ban’ would also be inconsistent with the educational approach recommended by health promoters.’⁹¹ However, as a

result of the petition, the Strategy and Policy Committee asked that ‘officers to investigate options for smoke-free playgrounds, parks and reserves.’⁹³

The 2012 report from that request again said that ‘public health authorities recommend using education rather than regulation, an approach that has already been adopted by many councils in New Zealand’.⁹³ There was no reference to which ‘public health authorities’. The report said that ‘A bylaw banning smoking is not recommended as it would be expensive and difficult to enforce’. ‘A smoking bylaw could also raise issues with the New Zealand Bill of Rights Act. Smokers trying to quit also need encouragement and support. Active enforcement is necessary for a bylaw to be effective and a ‘smoking police’ approach would not be perceived as positive or supportive.’⁹³

Since 2012, the WCC has had educational smokefree policies for all sports grounds, playgrounds and skateboards.⁹⁵ ‘Newtown Park, Rugby League Park and all of the city's artificial sportsfields’ had already had some smokefree signs. This appears to have been an internal decision by the parks staff. In 2014 the WCC declared Midland Park smokefree ‘Golden Mile's busiest green space’ which the Mayor described as ‘a well-loved oasis in the heart of our busiest shopping and commercial district.’⁹⁶ Signs were erected (see Figure Two below). Discussions in 2015 with Cancer Society staff monitoring the Park indicate that there is still a considerable amount of smoking in the area.

Figure 2: Wellington City Council Midland Park smokefree sign, 2015⁹⁷



2.2.7 Tobacco-free policies

The meaning of ‘tobacco-free’ depends on the context, and can include events, small geographic spaces, institutions and investment policies.

An example of a tobacco-free policy for events is the Ngati Kahungunu outdoor events, including their Waitangi Day celebration, which is both smokefree and tobacco-free.⁹⁸ People are asked to leave tobacco products at the entrances.⁹⁹ Other informal policies in New Zealand include some urupa (cemeteries) where local custom requires tobacco products not to be brought into the area. The one New Zealand government tobacco-free policy is for prisons. This prohibits tobacco in the buildings and on the grounds of prisons.¹⁰⁰

In the USA, the use of chewing tobacco has required a ‘tobacco-free’ approach to prevent tobacco use in schools and other places. A common definition, used in North Carolina and elsewhere, is a policy that ‘prohibits the use of tobacco products by anyone, including students, staff, and visitors, on school grounds or at school events at all times. This tobacco-free zone includes school premises, school vehicles, and school events, both indoors and outdoors, and both on and off school property.’¹⁰¹

A different perspective is offered by the concept of a ‘tobacco-free generation’. This concept originated with Singaporean experts,¹⁰² and is currently being investigated by the Tasmanian Parliament. It requires that after a particular date, tobacco sales are not allowed to those who were born after a certain date. This means that the proportion of the population affected gradually get larger, and the smoking population is less likely to be refreshed. Other tobacco control measures can continue to reduce the remaining population of smokers. The most common current variation of the proposed policy is that from 2018, those born since 2000 would not be allowed to buy tobacco.¹⁰³

A wider definition of ‘tobacco-free’ could be urban or other areas where tobacco sales are not allowed.



2.3 Options for smokefree outdoors policies

This section first looks at general policy approaches (s.2.3.1) then at general issues such as costs, implementation and enforcement (s.2.3.2) and then at particular options for Wellington City (s.2.3.3) and for protecting children (s.2.3.4).

The general options on smokefree outdoor policies include:

- 1) Do nothing specifically about smokefree outdoor area policies.
- 2) Provide information about the specific risks to individuals and the community from smoking in outdoor areas (eg, by mass media).
- 3) ‘Educational’ policies, where local or central governments state that no smoking *should* occur in particular areas, but where there is no law or bylaw which could be used to enforce the intention.
- 4) Administrative enforcement of smokefree policies (usually through permits, agreements etc).
- 5) Bylaws and legislation.

The general types of smokefree outdoor policy implementation include:

- No effort
- Minimal (eg some signs)
- Substantial (eg, staff training, a communications strategy, investment in communication)
- Comprehensive (includes planning, communication, enforcement and evaluation)

2.3.1 General policy approaches

There are four main policy approaches to reducing smoking in outdoor public areas, general information, ‘educational’ policies for particular areas as in New Zealand (as in s.2.2), the use of ‘administrative’ regulation, and by the use of law (bylaws and national legislation). Other approaches include the persuasion of private (this includes trusts, NGOs, and other non-profit organisations) landowners or businesses to make their properties, events or activities smokefree. There is also the question of the degree of incremental or faster approaches to the adoption of policies.

The World Health Organization treaty (which New Zealand has signed and ratified) has an Article (8) which requires governments to protect people from SHS in indoor public places and workplaces.¹⁰⁴ The guidelines for Article 8 mention an ‘obligation to provide universal protection’ in such areas and ‘possibly other (outdoor or quasi-outdoor) public places.’

General information and education

Increased information levels about the dangers of SHS, or about smoking denormalisation, may lead to changing public acceptability of public outdoor smoking. This could be inferred from the evidence of smoking acceptability on tobacco consumption and on quitting. US data indicates that a 10% increase over time in unacceptability of smoking in US homes/bars/restaurants was associated with 3.7% drop in tobacco consumption.¹⁰⁵ In other New York study in 2005, increased smoking unacceptability (adjusted for age, ethnicity, gender, marital status, birthplace,

education, income, employment, years in neighbourhood) was associated with higher cessation.¹⁰⁶

Local and central government can provide information about SHS in some outdoor places, and may provide information about the dangers to smokers and the public from smoking normalisation or from smoking cues. The danger of SHS outdoors includes the presence of significant fine particulate concentrations at least nine meters from a burning cigarette in light winds,¹⁰⁷ and concentrations inside buildings when there is smoking outside building openings.¹⁷ Significant tobacco smoke effects occur at over 10m from groups of smokers.¹⁰⁸

In New Zealand, central government (Health Promotion Agency - HPA) advice is that ‘There is strong evidence that there is no risk-free level of exposure to second-hand smoke’.¹⁰⁹ This advice is given in the context of smokefree homes and cars information, and may not be seen as applying to outdoor areas. There appears to be no explicit New Zealand central government information on SHS outdoors. While government ministers have mentioned the dangers of the example of smoking to children,¹¹⁰ there appear to be little government information explicitly about smoking normalisation and smoking cues. The HPA advice on ‘supporting smokefree environments’ is:

- ‘Create smokefree environments – in your home, car, workplace, or marae – especially around whanau, particularly our youngest ones.
- Remove cues and triggers that might prompt smoking like ashtrays, lighters, and keep cigarette packs out of plain view.
- Go to places where smoking is not present eg, smokefree sports grounds.’¹¹¹

While this advice implies that smoking normalisation and smoking cues may be dangerous, it does not explicitly indicate the dangers to smokers, those trying to quit, and the public from *seeing* smoking outdoors. In particular, the danger that seeing smoking outside bars and restaurants decreases quitting,¹¹² that the more youth observed smoking the more they perceived it is socially acceptable,¹¹³ and that for those smokers trying to quit, seeing smoking cues increased relapses.¹¹⁴ Smoking normalisation also can prevent smokers from considering quitting, and may hinder moves to increase smokefree policies.

‘Administrative’ means

Public organisations have the ability to require people and organisations to adhere to particular practices in some circumstances. These include:

- As part of lease or license agreements that put the smokefree onus on a leasee or licensee. Such agreements could be for the use of land, or for events that use public spaces. Smokefree requirements can be included, and enforced by cancellation or non-renewal, by forfeiture of bonds, or by financial penalties specified in the agreement. Some New Zealand local authorities appear to have used this method to require leased cafes within ‘smokefree’ parks to be smokefree. In Wellington, permits are required to use pavement areas for seating <http://wellington.govt.nz/services/consents-and-licences/footpaths/outdoor-seating>
- Rental agreements. For instance, for New Zealand government or local authority housing these might include smokefree external communal areas. As in s.2.2.6, the WCC policy is now for smokefree ‘communal areas in its housing complexes’.⁹²
- A no-smoking requirement of public entry to particular areas.

The Capital Coast District Health Board, as with other DHBs, enforces their smokefree grounds policy through signs (Figure 3) and by security staff.

Figure 3: Capital Coast DHB sign at Wellington Hospital



As in a number of other New Zealand and overseas cities, Wellington's Westpac Stadium is largely smokefree. A condition of entry to Westpac Stadium is that 'There is no smoking in the Stadium bowl' and 'Smoking is allowed only in designated areas:

The area between the turnstiles and the main doors to the concourse

The emergency exit spiral ramp at the northern end of the Stadium (between aisle 34 and 35)' (<http://westpacstadium.co.nz/entry-conditions/>)

Local authority bylaws for smokefree areas

Two general types of local authority bylaws (often called ordinances in the USA) are those (i) which are in practice not enforced, or very rarely enforced, and (ii) those which are actively enforced. 'Non-enforced' bylaws are very different from 'educational policies in several ways, including (a) they indicates in a clearer way to smokers and the public that the community norms have changed or are changing, (b) they give a greater basis for council staff and the public to intervene with smokers, (b) they indicate to smokers the potential for enforcement, even when this is unlikely.

The experience of local authorities with smokefree outdoor bylaws in Australia, Canada and the United States is that while they have the power to levy infringement notices, instant fines or to prosecute, this is extremely rare. The experience is that most effort is in communicating the smokefree policy. In Canadian research on 37 Ontario local authorities, 'no area municipality reported that they hired additional enforcement staff as a result of their community's smokefree by-law' or allocated extra resources to enforcement.¹¹⁵

New Zealand local authorities have wide general duties and powers to 'improve, promote, and protect public health' under the Health Act 1956 and the Local Government Act 2002. These powers are used for a number of health related issues, but not currently to require or promote smokefree outdoor areas or for tobacco licensing.

Section 23 of the Health Act states 'it shall be the duty of every local authority to improve, promote, and protect public health within its district, and for that purpose every local authority is

hereby empowered and directed ... (e) to make bylaws under and for the purposes of this Act ... for the protection of public health'.¹¹⁶

These duties and powers are reinforced by the requirement in the Local Government Act (Section 11), where the 'role of a local authority is to— ... (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment'.¹¹⁷ The reference to 'any other enactment' clearly includes the Health Act and specifically Section 23. Further discussion on these duties and powers is provided by Ken Palmer et al.¹¹⁸

Local authorities have been hesitant to use these powers in some instances, and on occasion there have been concerns about possible legal challenges to their use. This is highlighted by experience with alcohol-free areas. Parliament put the power of local authorities to create liquor-free zones beyond doubt by an amendment to the Local Government Act. Section 147 of that Act now gives local authorities specific powers to make bylaws for 'prohibiting or otherwise regulating or controlling' the use or possession of alcohol in an area.¹¹⁷

While some councils are beginning to plan to use bylaws for smokefree areas, it would be helpful if the Local Government Act were to be amended to specifically enable bylaws for smokefree and/or tobacco-free areas. This may encourage more councils to pass such bylaws, and for wider areas.

National legislation

In New Zealand, the grounds of all schools, pre-schools and kohanga reo have been required by law to be smokefree since 2004.²⁹ There are three possible approaches for legislation to help smokefree outdoor policies: (i) by giving more power to local authorities; (ii) legislating directly for smokefree requirements; (iii) a combination of the first two.

Legislation could provide local authorities (eg, through the Smoke-Free Environments Act or the Local government Act) with clearer and specific powers to pass smokefree bylaws, and more specific duties to protect their populations from smoking normalisation and SHS. Alternately, or as well, legislation could be amended to require specific smokefree areas nationally. These could include: (i) minimum smokefree distances from openings in buildings used by workers and the public, (ii) all outdoor public eating and drinking areas to be smokefree, (iii) smokefree transport waiting areas, (iv) smokefree zones within 10 metres of playground equipment used by the public.

Virtually all general types of outdoor smokefree policies that can be designed could be provided for by legislation – in terms of types of places, buffer zones, or events. Exceptions may include non-patrolled beaches, some events and some pedestrian areas, which may be better covered by local authority bylaws.

National legislation has a number of advantages for effective policy implementation. A national law can be more effectively and efficiently communicated by mass media, compared to each local authority trying to communicate its particular policies. A national policy also means that visitors from other regions do not have to learn about particular policies.

The one national law making process would also obviate the need for the 67 New Zealand local authorities to each go through a policy process for most outdoor areas. National laws do not mean that local authorities could not have policies (including bylaws). Ideally national smokefree legislation for new smokefree outdoor areas would also have a provision to specifically enable bylaws for smokefree and/or tobacco-free areas. In this way, local authorities could extend smokefree areas beyond such places as can be nationally standard (eg, building entrances, bar/café/restaurant patios) to non-standard places such as particular beach areas.

When financial losses are feared from smokefree outdoor policies, as for hospitality areas, national legislation provides a ‘level playing field’. Thus smokers would not be able to spend their ‘social time’ in one city compared to a neighbouring one, if it allowed more smoking than the other.

2.3.2 General outdoor smokefree policy issues

Major outdoor smokefree policy issues include costs, implementation and enforcement.

Distances and buffer zones

The Non-Smokers’ Rights Association in Canada has systemized smokefree buffer distances for various places, generally for the options of within 1-10, 11-20, 21-30 and 30+ metres.⁷⁰ However, many jurisdictions have buffer zones under 10 metres. The effect of buffer zones can mean that the pavements around schools, hospitals, and other buildings that the public use can be smokefree. Rotorua City Council has a smokefree policy that includes pavements around its administration buildings and some other facilities.¹¹⁹

Costs and financial benefits

In 2012, the costs of signs for the 154 WCC sports parks, playgrounds and skate parks was reported to be \$20,000, ie, about \$130 per location.¹²⁰ A 2012 WCC officer’s report noted ‘Upper Hutt’s signs cost \$90 each (including installation), and they also use a ‘smokefree’ sign supplied free by Regional Public Health, which costs \$25 to install. Hutt City Council prefers to use its own signs only, and apply a case-by-case ‘minimal but adequate’ approach to signage to avoid visual pollution. At some sites, Hutt City use only ‘smokefree’ stickers and no signs. These stickers are available free from Regional Public Health.’⁹¹

A further officer’s report indicated that the \$20,000 was for a ‘staged’ approach which would enable ‘minimum cost signage and communications options [to] be tested (eg stickers may be sufficient signage for additional parks, with more permanent signage installed when signs are replaced)’ and ‘the Council can assess the effectiveness of the initial entrance sign changes before it decides on the most appropriate and cost-effective way to alter signs in the rest of its parks.’ ‘As an indication of cost, \$20,000 (\$15,000 capital plus \$5,000 operational) will be sufficient to cover initial design costs, and promotion and signs to implement the staged approach for the first year.’⁹³

Information on the context and timing of costs is in section 2.4.5.



Implementation issues and options

Implementation issues include policy communication, the removal of cigarette butt receptacles from smokefree areas, and policy monitoring or evaluation.



Otara town centre¹

Communication and signs

The means of communication include permanent static signs and maps; websites, and media advertisements and coverage. It helps if there are easily recognizable communication elements that are common to all communication forms.

The signs vary in wording and design. Some explicitly mention the example of smoking to children, such as in Porirua (Figure 4). Some imply (vaguely) some danger from SHS outside, as in the Palmerston City Council sign (Figure 5).

Figure 4: Porirua City Council sign



Figure 5: Palmerston North City Council sign



In Wellington City, there appears to be no message beyond the use of the widely used New Zealand 'smokefree' logo (Figures 2 and 6) – for the variations on the logo see <http://smokefree.org.nz/logos> (this was first used by the Health Sponsorship Council, now the Health Promotion Agency).

Figure 6: Example of Wellington park sign



The Queensland State government has used the image in Figure 7 for both smokefree and general tobacco control promotion.

Figure 7: Queensland State smokefree campaign logo

**NOBODY
SMOKES
HERE ANY
MORE**

Without effective long term communication, few in a population may be aware of a policy.⁵⁵ Kapiti area surveys in 2009 and 2011, after the establishment of outdoor smokefree park policies there in 2008, found only 32% and 25% respectively of the park users knew of the policy.¹²¹ In a September 2007 Upper Hutt parks survey, soon after the May 2006 introduction of a smokefree parks policy there, only 63% of park users knew of the policy.⁴⁹ In Auckland, after the

introduction of smokefree outdoor policies in 2013, correct awareness of policies were as low as 17% (for parks and reserves).¹²²

Until public knowledge is well established, there need to be signs at all entrances to particular areas covered by a policy (eg, playgrounds, parks), and they need to be of sufficient size so that the users of the area are aware of them. Stickers on existing signs or structures tend to be too small. The design of wording images is important, and the materials used in signs needs to be long lasting and weather resistant. Signage does not always need to be at eye height (see Figure 8).

Figure 8: Bondi Beach, Sydney, Australia



New Zealand and international local authorities have used a wide range of types of sign designs. The directions for effective smokefree designs include simplicity, legibility and the degree to which smokers feel supported. Melbourne City experience has been that positive messages (eg, ‘breathe easy’) are better than negative ones (eg, the crossed cigarette).



No professional evaluation of the effectiveness of particular signs could be found. New Zealand signs vary widely. Themes include the modelling of smoking (Figure 9) and air quality.

Figure 9: Sign from Community & Public Health Canterbury DHB



Maps are very useful in making clear the extent of smokefree areas (eg, Figure 10, and Appendix One).

Figure 10: Brisbane, Queensland map of smokefree areas



Beyond signs and other media, effective policy communication may require council staff to inform smokers about the policy. This is covered more in the section on enforcement below.

Policy monitoring and evaluation

This can include butt collection, the observation of smoking incidence or prevalence in an area, and surveys of the users of an area or of local or district/city residents. A Wellington region study of smokefree evaluation methods found that butt collection was the most cost effective in time and resources, and could provide an indication of smoking in an area at all time during a period (eg, a day or week).¹²¹ However observations can provide the point prevalence of smoking. The study found that ‘using both observations and butt collection methods provided a more comprehensive picture of policy compliance than using one method alone.’¹²¹ Evaluation needs to continue, as the impact of policies may decrease over time, and longterm evaluation can help policy improvement design.¹²¹ Surveys can establish the level of awareness of the smokefree policy.

In the City of Port Philip, which covers some of the Melbourne beaches, beach rangers have conducted weekly butt counts to monitor the smoking on smokefree beaches.

Enforcement and compliance

The extent of policy enforcement required depends largely on the public support for the policy, and the extent of the previous and ongoing communication of the policy and its rationale. For both ‘educational’ policies such as those used currently in New Zealand, and for enforceable policies, these elements are crucial.

Educational policies may be ‘self-enforcing’ if smokers feel sufficient social pressure. There can be an element of enforcement if the public in particular places feel motivated or secure enough to approach smokers and ask them to move out of the area, or stop smoking. This type of activity is more likely if the public is able to point to a sign, or, in the case of jurisdictions where there are smokefree bylaws or laws, to be able say that the law requires an area to be smokefree.

Because they cannot be enforced, ‘educational’ policies depend on (a) all the population (smokers and non-smokers) being aware of the existence of such policies, and where the policies cover; (b) that the norms about smoking in particular places (eg, playgrounds) or where there are smokefree policies are such that (i) smokers do not feel that they can smoke, or (ii) sufficient members of the public feel empowered to intervene when they see smoking in places where there are smokefree policies. It is unclear *if* such public intervention may be effective, what form it may take, or what proportion of a population may feel empowered in particular circumstances. Public interventions could range from information giving (advice to smokers about a policy) through protest (communicating their opposition to smoking in that place) to more active means (eg, taking photos of smokers who smoke in ‘smokefree areas’ and posting them online).

However, even where there are laws/bylaws *public* enforcement may be rare. In 2011 Queensland survey, only 20% agreed with the statement: ‘Because of Queensland's tobacco laws, I have redirected someone who was smoking in a no-smoking zone.’¹²³ What laws may do is give *smokers* the idea that the public may intervene. In 2011, 60% of smokers agreed with the statement: ‘Because of Queensland's tobacco laws, I think I'm likely to be pulled up by other people if I smoke in a no-smoking zone’.¹²³ In Auckland after the 2013 smokefree policy changes, only 29% of survey respondents said that would point out ‘that it was a smokefree area/event’ if they saw someone they did not know smoking there.¹²²

In a similar culture to New Zealand, bylaw enforcement in Australia by legal action is usually as a last resort after informal approaches by local authority officers, and after a series of warnings. In New South Wales, there have been fines for smoking in smokefree outdoor areas,¹²⁴ but in four years one local authority had only fined three smokers, for persistent behaviour despite warnings.¹²⁵ Education and persuasion is usually all that is needed.¹²⁶

In Perth, in the first month of the enforcement of smokefree pedestrian malls (June 2014), the Lord Mayor said that ‘only five smokers have received infringements, while rangers cautioned almost 400 smokers ... who willingly complied by butting out. ... Of the 15 or so people per day that we have to approach now, some haven't been into the City since the ban was introduced or are unsure where the pedestrian malls start and end. But as soon as rangers tell them they're breaking a law they butt out pretty promptly. When you consider the number of pedestrians in these areas each day is in the tens of thousands, I'd say only having to issue about one infringement a week is a success.’⁸⁶

Figure 11: Perth performance artists highlighting smokefree mall policy¹²⁷



After a six months education period, Perth led up to the enforcement stage with performance artists highlighting the smokefree policy (see Figure 11): ‘on spring-loaded stilts, clad in orange jumpsuits and armed with smoke alarms and danger tape, performers known as the ‘Smoke Free Police’ will take to the City’s smoke free zones at peak times ... to literally blow the whistle on smokers. The Lord Mayor said their aim is to add colour and movement and a bit of fun to the static ‘no smoking’ signs that will soon be enforced.’¹²⁷

In Ontario, a study found that ‘most communities reported actively enforcing [their smokefree outdoor] by-laws; six communities [of 37] reported they had issued tickets to people not in compliance with outdoor smoking restrictions.’¹¹⁵ In Queensland, compliance during official inspections with smokefree outdoor dining and drinking was over 98%.⁷⁸

The New Zealand experience in enforcing the 2004 smokefree bar legislation was that during the first ten months of the smokefree bars policy, there were only 196 complaints to officials about smoking in the over 9900 licensed premises.¹²⁸

2.3.3 Particular outdoor smokefree options for Wellington City

Whether educational policies or bylaws are used, the current Wellington City smokefree playgrounds policy could be expanded to cover all parks, beaches, bus stops and other transport waiting areas, and shopping pavements. Permits for events could include smokefree requirements. Where City pavements are leased or licensed for café or other seating, the agreement could include smokefree conditions. The WCC could also conduct referenda to allow local areas such as Kilbirnie to decide on particular smokefree advances (eg, for the shopping area pavements). These could also be used to allow local areas to decide on the level or presence of tobacco retailing.

Larger smokefree areas

For larger shopping, business and entertainment areas, such as the CBD of Wellington, and other similar areas in New Zealand, there is the opportunity for whole large areas to be smokefree. Eventually, whole city jurisdictions could be smokefree. Once larger areas are considered, the issue of ‘smoking areas’ arise. Some arguments against such smoking areas include the perceived support for smoking (as opposed to smokers), and the erosion of the effectiveness of a policy. Ethical issues of larger areas are considered in s.2.4.6.

A successful ‘smokefree city’ could be defined as one where the population has 1/100 or less of seeing smoking outdoors in public places (places accessible by the public) during a week. So an individual would on average only see smoking outside in that city about once in two years or less.

An example of an effective city-wide policy is in the town of Calabasas, South California, near Burbank. Their 2006 ordinance requires that everywhere outdoors in the city is smokefree ‘except for

- (1) Private residences

- (2) designated areas in shopping malls (max 1/20,000 of area), provided the area: ...has a clearly marked perimeter and is signposted, and
- (3) Any unenclosed area in which, due to the time of day or other factors, it is not reasonable to expect another person to arrive.¹²⁹

2.3.4 Context for and options to protect children

As seen in s.2.1.2, there can be an assumption that children only need to be protected at playgrounds and some sports areas. It can also be assumed that children are not present at bars, because of the legal requirement to exclude them from some bars or sections of bars. This exclusion may be unlikely in outdoor areas, which are typically intended to be ‘family friendly’.

The assumption that places with a majority of adults do not need smokefree denormalisation or SHS protection for children appear to be based on either (i) that the *proportion* of those who are children should determine policy; (ii) that there are not appreciable *numbers* of children present if the majority of people are adults; or (iii) the ‘rights’ or needs of a majority should determine policy; or (iv) the rights or needs of adults should determine policy; or (v) the rights or needs of smokers should determine policy.

To inform assumption (ii), data on the incidence (numbers) of children needs to be examined. Even where the proportion of children is low, the numbers may be large, as the whole volume of people is large. So in the New Zealand observation research of Thomson et al, the proportion of children ranged from 43% in playgrounds, to 9% in shopping streets and 3% in transport waiting areas. However, there were 276 children seen during observation periods in streets and pedestrian areas, compared to 371 at playgrounds.⁹ That is, streets and pedestrian areas can have as many (or more) children that in ‘child specific’ areas.

Health promoters and policymakers may need to consider ‘non-typical settings’ in terms of the impact of smoking policies on children. An example is smokefree outdoor area policies for shopping streets and other areas not considered as ‘children’s’ areas. Such areas may have a greater effect on children at a population level than smokefree policies for playgrounds.

Some of the assumptions that children should not be in ‘bars’ can be seen in a 2014 opinion piece in the *New Zealand Herald* by a regular columnist:

‘there are few places in the world that are truly "only adults allowed", and bars - establishments where adults are sometimes at their worst behaviour - should be at the top of that list. ... We are not talking the family restaurant; we are not even talking a beer garden during the daytime. We are talking after-dark drinking establishments that won't make a Traffic Light and have "food menus" comprising little more than olives and cured meats.’¹³⁰

Options for protecting children from smoking normalisation or SHS could be based on the proportion of people present, the numbers, or on children’s rights (see s.2.4.5). However, in

practice, protecting those adults who are trying to quit means that there is also a need for smokefree policies in all places where there are adults.



2.4 Evidence and arguments for outdoor smokefree policy investment

This section provides evidence and arguments on the fit with Wellington City documents (s.2.4.1), the importance on reducing visible smoking and smoking normality (s.2.4.2), on the effectiveness of outdoor smokefree policies (s.2.4.3), particular evidence on smoking and alcohol (s.2.4.4), outdoor smokefree policy costs (s.2.4.5) ethical issues related to smokefree outdoor policies (s.2.4.6) business issues (s.2.4.7) and other issues (s.2.4.8).

2.4.1 The fit with Wellington City Council strategies and vision

Outdoor smokefree policies fit well with Wellington City Council strategies and vision. These include that the ‘people-centred city will be healthy ...’, and the ‘central city will be a vibrant and creative place offering the lifestyle, entertainment and amenities of a much bigger city.’

The WCC Vision lists amongst the city strengths as ‘Outstanding quality of life’. The Mayor’s introduction says that ‘Wellington’s city strategy will position Wellington as an internationally competitive city with a ...a high quality of life and healthy communities’.¹³¹

One of the ‘eight big ideas’ in the WCC 2013/14 Annual Report was ‘a loveable city that sustains what makes Wellington a great place to live’.¹³² The potential match between the Council’s 10 year planning and the Government’s smokefree 2025 aim is shown in the groupings below:

WCC desired outcomes:

- An eco-city
- A people centred city
- A dynamic central city

WCC priorities:

- An inclusive place where talent wants to live
- Resilient city
- Making savings now

To match these desires and priorities, increased smokefree outdoor policies for Wellington offer a number of benefits. In particular, a smokefree CBD could offer:

- World level branding as a clean/green/smart city – that is more attractive to shoppers, tourists and to high-skilled workers, and to help with tourism marketing
- A clean/green/smart image and reality (see Figures 12 and 13 for City of Perth marketing and an image used by three Sydney area councils)
- A competitive central city to other Pacific Rim tourism and lifestyle cities including Sydney, Melbourne, Sydney, Brisbane, San Francisco, Los Angeles and Vancouver.
- A healthier, more productive workforce, with fewer accidents (see s.2.4.7)
- The chance to cut outdoor cleaning costs from smoking-related litter, and to protect the harbour marine environment from such litter.

Figure 12: City of Perth marketing image¹³³



Figure 13: Joint image for three Sydney area councils



2.4.2 Is the visibility and normality of smoking important?

Seeing smoking around you at the neighbourhood level increases the chance of stating smoking or not being able to quit. In research using three waves of longitudinal (ie, using the same people) New Zealand data for the 2004-2009 period, *moving* to a neighbourhood with a lower smoking prevalence decreased the chance of smoking or relapsing. This is after controlling for income, labour force status, household tenure, family status, smokers in household, and neighbourhood deprivation. A one decile decrease in the neighbourhood smoking prevalence was associated with a 4% decreased odds of being a smoker.¹³⁴ Most of this effect is from the greater ability to quit and stay smokefree.

In international research, similar effects have been found. In Minnesota, the more youth observed smoking the more they perceived it is socially acceptable.¹¹³ The normality of smoking appears to be a factor in taking up smoking,¹³⁵ and can affect quit attempts and quitting.¹³⁶⁻¹³⁸ Smokefree business, social and shopping areas can affect large populations 365 days/year.

If reduced visibility and normality leads to the reduced acceptability of smoking, then consumption and quitting may be affected. US data indicates that a 10% increase over time in the unacceptability of smoking in US homes/bars/restaurants was associated with 3.7% drop in tobacco consumption.¹⁰⁵ In other study in New York in 2005, increased smoking unacceptability (adjusted for age, ethnicity, gender, marital status, birthplace, education, income, employment, years in neighbourhood) was associated with higher cessation.¹⁰⁶



2.4.3 Do smokefree outdoors policies reduce smoking or exposure to SHS?

There is a general lack of evaluation of the large numbers of smokefree outdoor policies established in the last ten years in New Zealand and internationally. Partly this is due to many being at local authority level, where evaluation of this type of policy is less valued. However, recently evidence has been emerging.

In Queensland, where major smokefree outdoor restrictions were introduced in 2006, a 2011 survey found 76% of respondents agreed to the statement: ‘Because of Queensland's tobacco laws, I find it irritating when someone smokes near me in a public place’. A further 88% agreed to the statement ‘It is less acceptable to smoke in public places now’.¹²³

In Minnesota young adults perceived greater difficulty of smoking in parks if living in an area with a smokefree parks policy.¹³⁹ Smokefree policies can be associated with increased awareness of smoking and secondhand smoke risks.¹⁴⁰

Two recent North American studies associate smokefree outdoor policies with quit attempts. Californian smokers who perceived smokefree park/patios regulations in their community were almost twice as likely to attempt quitting.¹⁴¹ Those not exposed to smoking on Ontario bar/restaurant outdoor areas were more likely to have tried to quit, and over twice as likely to not relapse.¹¹² The effect of a smokefree bar and restaurant patio law appears to have reduced exposure to SHS by up to 25% in Alberta and in Nova Scotia, up to 21%.¹⁴² Smoking in New York parks and beaches appears to have decreased with smokefree policies.^{143, 144} There appear to be particular cessation benefits with smokefree housing policies, although most research has been on indoor policies.¹⁴⁵

In New Zealand, a range of studies have found reduced cigarette butt numbers and reduced smoking after the introduction of smokefree policies.^{121, 146, 147}

2.4.4 Separating smoking and alcohol

Besides reducing secondhand smoke levels (see s.2.1.1) smokefree policies for the outside areas of bars, restaurants and cafés help those quitting and decreases smoking uptake. Besides the evidence above in 2.4.3, other studies indicate that social areas where smoking is allowed and alcohol is served increase relapse to smoking. In the United States, smokefree bar policies were found to smokefree bars significantly reduce the proportion of people starting smoking ($p \leq 0.01$), smoking relapse into daily smoking ($p \leq 0.05$) and relapse into heavy smoking ($p \leq 0.01$) among people age 21 or older.¹⁴⁸ Even moderate alcohol consumption can play a role in smoking relapse.¹⁴⁹

In 2014 New Zealand survey of late-onset smokers aged 18 to 28 years, 85% agreed to the statement: ‘in the last two weeks, there has been an occasion where I smoked because I was drinking’. The NZ Health Promotion Agency authors concluded that: ‘strong links between smoking and drinking ... may act as barriers to successful cessation among young late-onset smokers’.¹⁵⁰

The reasons for the powerful health-positive effect of smokefree policies include the way alcohol use affects cognition and decision-making.¹⁵¹ Even those intent on quitting and staying smokefree find it very difficult to resist offers of cigarettes in the social situation of bar and café outdoor areas.¹⁵²

2.4.5 Smokefree outdoor policy costs

The costs include the need for communicating new policies effectively, and for training staff to deal with smokers. There are of course immediate financial benefit from lower cleaning costs, as well as long term economic benefits from a healthier and more productive population (see s.2.4.7).

Context

While the costs for an effective outdoor smokefree policy change in Wellington City may be over \$100,000, including effective communication and staff training, this is small compared to the Wellington City annual budget of over \$400m. The ability to make changes at the margin of city budgets is shown in Wellington with at least two last minute changes to the City annual plan in 2014, one for \$571,000 for part of a Kilbirnie town centre upgrade, and \$257,000 to develop a design brief and resource consent applications for a new Johnsonville library.¹⁵³ In the 2013-14 financial year, the city budgeted \$172.5m on capital asset renewals and new assets.¹³²

A smokefree outdoors budget could be put in the context of a Wellington City 2013-14 operating budget for gardens, beaches and green open spaces of about \$30m, over \$12m for city promotions and business support (not counting convention venues) and \$11m for waste reduction.¹³²

There has been very little research on the costs of smokefree outdoor policies. In Ontario, a study of 37 municipalities with smokefree bylaws found none 'reported that they hired additional enforcement staff as a result' of their community's smoke-free by-law.¹¹⁵

Timing of costs

Experience worldwide indicates that much of the investment needed to establish effective smokefree outdoor policies is required upfront, in the time before implementation (for adequate policy design) and in the first year of the policy. This is because of the needs for communication of the policy and its rationale, and for staff training. Immediate communication needs include signage and other physical communication, website changes, attracting media coverage and paid media campaigns. Effective change needs staff training in policy enforcement.

2.4.6 Ethical issues related to smokefree outdoor policies

Underneath smokefree policies is the reality of rapid addiction to nicotine from smoking.¹⁵⁴ The nicotine addiction that is an immediate result of tobacco smoking is a condition that is unlikely to be from a fully informed decision.¹⁵⁵ So ensuring child and youth freedom from nicotine addiction requires community and national structures and action.

Do smokefree outdoors policies reduce smoking equitably and ethically?

As seen above in s.2.4.2 and 2.4.3, smokefree outdoor area policies have a number of benefits, including helping tobacco smokers quit and stay quit, and decreasing the initiation of smoking by never-smokers. However, there has been some concern in health and ethics discussions about the potential stigmatisation of smokers by smokefree policies.¹⁵⁶⁻¹⁵⁸ Courtwright provides a more balanced perspective on possible stigma.¹⁵⁹

A detailed examination of the range of arguments about stigma and smoking is outside the scope of this report. However, some aspects that need to be considered include the extent to which the ‘stigma’ arguments sufficiently recognise aspects of smoking, including (i) the addictiveness of tobacco smoking, and the consequent ambiguity about smoking by many smokers (ie, they don’t want to be smokers), and (ii) the danger from visible smoking through normalisation and the provision of cues to smoke. One way to examine the issues is to disentangle the discouragement of the *activity* of smoking by smokefree policies from attitudes to *people* who smoke.

Smokefree place policies are about an *activity* not about a type of people. They generally give a temporary effect of smoking limitation. Temporary social and physical isolation is not moral isolation. The possible social and physical isolation of having to smoke in particular outside areas, or outside of other areas, is relatively temporary. While smokers are not smoking, smokefree area policies do not restrict them, or mark them. In some cases some people may avoid close proximity to smokers because of the remaining smell of smoking, or because of the knowledge that their clothes will be emitting third-hand smoke. But the avoidance is not because of smokefree area policies.

The ‘stigma’ arguments against smokefree outdoor policies also need to be examined for the voices of children, ex-smokers, and quitting smokers. Much of the relevant literature uses qualitative data from smokers which misses these perspectives. Survey data from New Zealand smokers indicates that ‘setting an example to children’ was given as ‘very much’ a reason to quit by 51%.¹⁶⁰ It also indicates that smokers can give support for a range of outdoor area policies.¹⁶¹

The addictiveness of nicotine in tobacco means that after very little use (less than 100 cigarettes) smokers find it very difficult to quit.¹⁵⁴ Thus while a large majority of smokers across a number of cultures regretted starting smoking,¹⁶² they are not able to effectively act upon their wish to not be smokers. We therefore have a group, smokers, some of whom may resent smokefree regulations and may feel stigmatised. But many feel that smokefree laws support quit attempts, and that the smokefree areas will help protect their children from smoking.

In a Minnesota qualitative study after indoor smokefree regulations were put in place:

‘participants reported that smokefree legislation forced them to confront their addiction. ... Both current and former tobacco users felt smokefree regulations contributed to stigmatizing smokers. They also reported smokefree legislation reduced the temptation to smoke. The physical absence of cigarette smoke in bars and restaurants appeared to support quit attempts. The inconvenience of smoking outside was reported to have a similar effect.’¹⁶³

A smokefree Wellington CBD, without smoking areas, could mean that workers are not able to smoke during a working day (ie, 8-10 hours). This may be compared to a long distance flight. With such a policy, those who also live in the CBD would need to go out of the CBD to smoke. This may raise issues for those residents who had settled in the CBD and were not able to quit, particularly for those with restricted mobility.¹⁴⁵ It could be argued that for a smoker trying to give up, decreased opportunity to smoke is exactly what they want so as to help them stay quit.

Other ethical and legal considerations

(This section is from Thomson et al 2008)¹⁶⁴

It can be argued that it is a reasonable ethical principle for a society to try to minimise the exposure of children to observing the consumption of tobacco, a highly addictive and hazardous drug. Children are a highly vulnerable population, susceptible to the influences of adult behaviours. Protection from addiction can be considered to be freedom enhancing overall – given that the great majority of smokers regret ever starting.¹⁶⁵

The balance of major relevant ethical considerations – beneficence, non-maleficence, justice, and respect for autonomy¹⁶⁶ – may be weighted towards increasing smokefree outdoor places if we adopt the principle of putting the protection of children first, and by assessing the balance of benefit over harm.^{167, 168} The principle of giving the protection of children primacy is also underpinned by international treaty obligations. Nearly all governments have obligations under the United Nations Convention on the Rights of the Child, which requires that in making policy, children's rights must be put first, as 'the best interests of the child shall be a primary consideration', and governments 'shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights'.¹⁶⁹

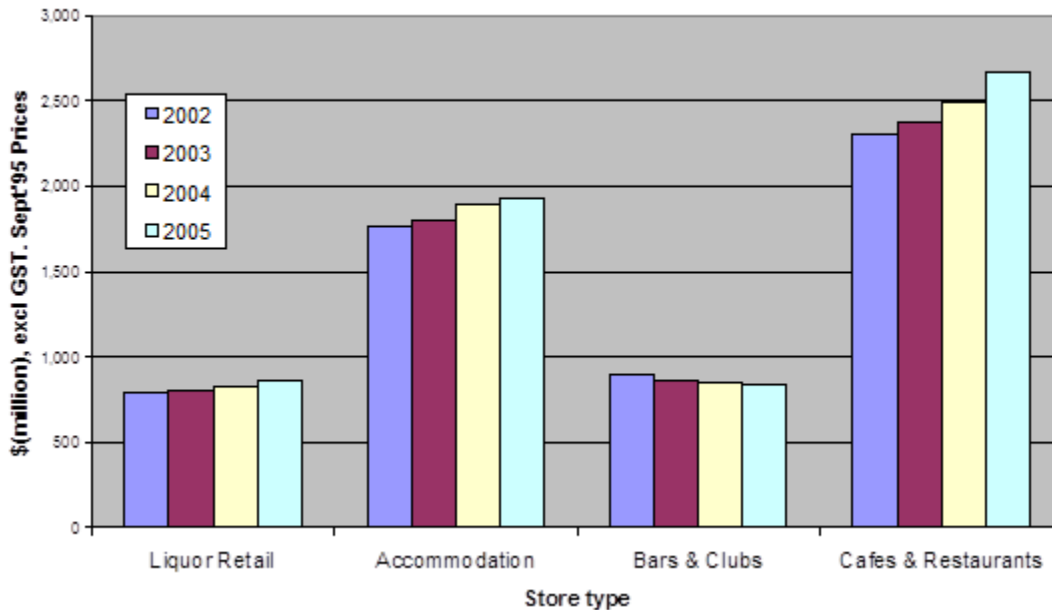
2.4.7 Business implications from smokefree outdoor areas

A major potential obstacle to smokefree outdoor policies for hospitality areas is the fear of losing customers. There does not appear to be any studies of the financial impacts of smokefree outdoor policies. However, across 56 studies internationally of the impact of *indoor* smokefree policies for hospitality businesses, there appear have been no pattern of job losses or sales decreases. 'An increase in the share of bar and restaurant sector sales in total retail sales was associated with smoking bans.'¹⁷⁰

In New Zealand, studies on the effects of the 2003 smokefree bars legislation found 'little change in the reported patronage of bars and pubs between 2003–4 and 2005–6.'¹⁷¹ There had already been a downward trend in sales in bars and clubs since 2002 and an increase for cafés and restaurants (see Figure 14).¹⁷¹

A study in 2014 of the trends since 2004 found steady sales increases for both the bars and clubs area as well as for cafés and restaurants, and 'employee numbers for cafes and restaurants increased from 48,000 workers in 2003 to a peak of 58,000 in 2008, while employee numbers in pubs, taverns and bars remained relatively stable during this period.' Overseas tourist numbers have increased since 2004.¹⁷²

Figure 14: Annual NZ total retail sales by four main liquor-selling store-types, 2002-2005¹⁷¹



It appears likely that this pattern would be the same for outdoor areas. Non-smokers would be more likely to use the areas if they were smokefree, particularly if they have children. Smokers who were trying to quit would not have to avoid the cues from smoking in those areas. As with indoor areas, some smokers would prefer smokefree areas for a variety of other reasons. Based on the New Zealand experience for indoor smokefree bars, support by smokers would be likely to sharply increase once they experienced the outdoor policy.^{171, 173, 174}

One perceived factor in adopting smokefree policies for bar outdoor areas is the investment that has been made in sheltered areas. However, such areas also attract non-smokers, so the use of such areas is likely to *increase* rather than decrease with smokefree policies. In a 2013 Auckland survey, a net 50% of respondents said they would use outdoor restaurant pub and café areas more if they were smokefree (91% said they would use them more or the same, and only 7% said they would use them less).¹⁷⁵ Also, many smokers prefer not to have smoke around them.

General considerations for the hospitality industry include whether the industry as a whole, or particular businesses intend to be:

- ‘Family friendly’, ie, welcoming to children
- Sustainable, ie, are they planning for a smokefree New Zealand in 2025?
- Seen as playing apart in achieving New Zealand government health goals: ie, being part of the solution rather than the problem.

For New Zealand business experience of smokefree dining, see the video by Scott Brown, co-owner of the HIP group of restaurants in Auckland on <https://auckland-northland.cancernz.org.nz/en/reducing-cancer-risk/help-create-change/make-outdoor-dining-smokefree-in-auckland/>

In Queensland, there was a 20% net gain in survey respondents who said they visited outdoor dining/bars after the 2006 smokefree outdoor dining and drinking law change.⁷⁸ In areas of Melbourne and Sydney, once smokefree bylaws were implemented, the majority of business owners supported the policy.^{176, 177}

A general consequence of smokefree areas for all businesses, except those who sell tobacco, is that reduced smoking means more spending in other areas. Other general consequences for business include healthier customers (who are thus able to earn and spend more)¹⁷⁸ and more productive, less costly workers.¹⁷⁹ 'The overwhelming body of evidence ... is that smoking imposes costs ... and that many of these costs are borne by employers'¹⁸⁰ (see also Figure 15).

Figure 15: Cost of smoking for employers in the USA ^{181*}



* Based on data from Berman et al¹⁷⁹

2.4.8 Other issues

Why focus on downtown streets compared to other outdoor areas?

Areas such as the Wellington CBD are important for smokefree policymaking, as they are central to urban life. They contain much of the most high profile shopping, commerce, government and entertainment activity. They are usually the places in cities with the densest pedestrian traffic. Thus they are places which have strong influences on social norms, which can be formed when large numbers of people see 'normal' behaviour.¹⁸² Downtown areas, particularly the shopping, hospitality and entertainment areas can be very attractive to those aged 15-35, a period in which smoking initiation and quitting is crucial.

A WCC survey 'of pedestrians entering the Wellington CBD between 7:00 and 9:00am over the entire survey week in March 2013' found over 54,000 pedestrians, (averaging about 11,000 per day). 'The maximum hourly pedestrian volume entering the CBD was some 7,745 pedestrians'

and on average ‘the hourly pedestrian volume entering the CBD on any weekday morning was just under 5,500 pedestrians.’¹⁸³

For the Golden Mile, the survey recorded ‘an average of 73,599 pedestrians walking past 22 survey points along the Golden Mile between 12 noon and 2:00pm on a typical weekday in March. The maximum hourly pedestrian volume was observed to be some 45,909 pedestrians’. ‘On average some 36,800 pedestrians were recorded per hour during the weekdays.’¹⁸³



Environment and ecological issues

There is some research on the extent and style of cigarette butt litter in Wellington. The studies indicate that butts are littered even when rubbish bins are around,^{184, 185} suggesting that smokefree area policies may be more effective in reducing butt litter than making bins available, at least in the Wellington CBD. Cigarette butts are highly toxic to fresh water and marine life,¹⁸⁶ and a source of metal contamination.¹⁸⁷

One Wellington study on 31 bus stops found 314 cigarette butts in the baseline survey, and 123 new butts in the repeat survey after 24-hours. This was often in spite of rubbish bins. ‘On average, 2.5 new butts accumulated at bus stops with a rubbish bin less than 5 metres from the bus shelter’ or bus sign post.¹⁸⁴

Another Wellington study found that 77% of the 219 smokers observed littered their cigarette butts, despite a mean of 3.5 bins being in view and with a bin every 24 m on average. Most smokers (73.5%) did not extinguish their butts and some placed lit butts in bins (constituting a risk of bin fires).¹⁸⁵

In 2009, six volunteers were reported to have collected 2000 cigarette butts from Oriental Bay in ‘a couple of hours’, and in 2000, 162 butts/ square meter were found ‘on the harbour floor near the overseas passenger terminal stormwater outfall’.¹⁸⁸



Smokefree beach sign, Mexico¹⁸⁹

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Appendix One

Palmerston North City Council map of smokefree pedestrian areas 2014 ¹⁹⁰



Appendix Two: Further material on smokefree outdoor policies in New Zealand

The Cancer Society of New Zealand has information on local and regional cases at:
<http://www.cantobacco.org.nz/campaigns/smokefree-councils-outdoor-areas/regional-cases>

See also:

- Halkett L, Thomson G. Getting an outdoor smokefree policy: The case of Kapiti Coast District Council. *N Z Med J* 2010; 123(1308):28-41
- Hyslop B, Thomson G. Smokefree outdoor areas without the Smoke-Police: The New Zealand local authority experience. *N Z Med J* 2009;122(1303):67-79
- Case study of Auckland Zoo <http://www.otago.ac.nz/wellington/otago030270.pdf>
- Botany (South Auckland) smokefree town centre¹⁹¹
- Otara (South Auckland) smokefree town centre project¹⁹²