

STATEMENT OF PROPOSAL

Smokefree Public Places Policy

August 2023

HAVE YOUR SAY	2
Statement of proposal	3
Introduction	3
Background.....	3
The Legislative Context	3
The harm caused by smoking and vaping	5
Smoking Trends in Aotearoa	6
National Tobacco Smoking Trends	6
Kapiti Tobacco Smoking Trends.....	6
National Vaping Trends	7
Kapiti Vaping Trends.....	9
The role of Councils in smoking prevention	9
What Other Councils Are Doing	10
Kapiti’s Current Smokefree Parks and Playgrounds Policy	12
Purpose of the proposed policy changes.....	12
Options considered by Council	13
Broadening the scope of the existing policy to include vaping.....	13
Broaden the areas designated as smokefree/vapefree	13
Regulatory tools and enforcement.....	19
Options considered but not progressed.....	20
Summary of proposal	20

HAVE YOUR SAY

The Council invites your views on the draft Kāpiti Coast District Council Smokefree Public Places Policy 2023.

The formal consultative period will be from 30 August 2023 to 2 October 2023.

Submissions must be made either in writing or online.

You can complete the submission form attached to this document and either:

- email it to haveyoursay@kapiticoast.govt.nz
- drop it off at the Council offices or a Council Service Centre, or
- post it to 'Kāpiti Coast District Council, Private Bag 60601, Paraparaumu 5254'.

You can also make your submission online via Council's online submission portal at <https://haveyoursay.kapiticoast.govt.nz/gambling-and-smokefree-policy-reviews>.

Hard copies of the submission forms are also available from District libraries and service centres.

Submissions will be heard on 19 October 2023.

Persons who wish to be heard by Council will be given the opportunity to do so. If you wish to make an oral submission to Councillors, please indicate YES on the submission form and ensure you have included your contact details. We will contact you to arrange a time for you to speak.

What happens to your feedback?

Your submission, and those of other submitters, will help inform Councillors as we finalise the new Kāpiti Coast District Council Smokefree Public Places Policy 2023.

Statement of proposal

Introduction

1. Kāpiti Coast District Council (the Council) has prepared a new Policy to support Central Government's Smokefree Aotearoa goal of becoming a smokefree nation by 2025 (meaning less than 5% of the population are smokers).
2. The Kāpiti Coast District Council supports the Government's efforts to reduce the exposure of non-smokers to any detrimental health effects caused by smoking, and to de-normalise smoking by reducing the amount of smoking seen in the community.
3. Achieving this goal is a responsibility shared between central and local government, the health sector, tobacco control agencies, and communities. Local government has a role in promoting the health of its communities through:
 - section 11 of the Local Government Act 2002, which mandates local authorities to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future
 - section 23 of the Health Act 1956, which mandates local authorities to improve, promote, and protect public health within its district.
4. A comprehensive Smokefree Public Places Policy that supports the aims of current legislation and the Smokefree 2025 goal is a valuable tool for Council to support change in this area and protect the health and wellbeing of its communities. The draft Smokefree Public Places Policy broadens the scope of the policy to prohibit both smoking and vaping in council-owned public places to de-normalise smoking and vaping behaviour in our communities to protect the health and wellbeing of our people.

Background

The Legislative Context

5. The Smokefree Environments and Regulated Products Act 1990 is the key piece of Smokefree legislation in New Zealand. The Act's main aims are:
 - restricting the sale and supply of tobacco and vaping products to those over the age of 18
 - regulating and controlling the marketing, advertising, and promotion of vaping and tobacco products
 - discouraging people, especially children, young people, and non-smokers from taking up smoking and vaping
 - reducing the exposure of people who do not themselves smoke to any detrimental effect on their health caused by smoking by others
 - regulating the safety of vaping products and smokeless tobacco products
 - monitoring and regulating the presence of harmful constituents found in regulated products and their emission.

6. In 2011, the Government set a goal for Smokefree 2025. The goal aims to reduce smoking prevalence to minimal levels (less than five percent of New Zealanders will be smokers by 2025). This has resulted in the *Smokefree Aotearoa 2025 Action Plan*, launched in December 2022. This plan contains six focus areas which are intended accelerate the progress towards a smokefree future and tackle the harm smoked tobacco products cause the people of New Zealand.
7. The Government has continued to strengthen its smokefree regulation to achieve a Smokefree Aotearoa, with a number of Acts changing since Council's 2008 policy was adopted. The introduction of new legislation and regulations is aimed at reducing smoking prevalence and address the increasing uptake of vaping, particularly among young people. Key legislative changes include:
 - The *Smokefree Environments and Regulated Products (Vaping) Amendment Act 2020* - which attempted to strike a balance between ensuring vaping products are available for smokers who want to switch to a less harmful alternative and ensuring these products aren't marketed or sold to young people.
 - The *Smoke-free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Act 2020* prohibits smoking and vaping in motor vehicles carrying children and young people under 18 years of age.
 - The *Smokefree Environments and Regulated Products (Smoked Tobacco Products) Amendment Act* - came into force in January 2023 and will restrict the sale of smoked tobacco products to a limited number of approved retail outlets and prohibit anyone from selling or supplying smoked tobacco products to people born on, or after, 1 January 2009. The Amendment also extends the Act's regulatory powers over the composition of smoked tobacco products, such as nicotine levels, so that only products that meet requirements set out in the Smokefree Environments and Regulated Products Regulations 2021 can be manufactured, imported, sold or supplied in New Zealand. This is intended to make these products less addictive and appealing.
8. Vaping products are regulated under the Smokefree Environments and Regulated Products Act 1990 (the Act), with specific vaping regulation introduced in November 2020 setting a number of limits and requirements for all vaping products being sold in New Zealand. All vaping products for sale in New Zealand must be notified through the Vaping Regulatory Authority's Health Advisory and Regulatory Platform (HARP) database. Products that are not notified, or notified incorrectly, cannot be legally sold in New Zealand.
9. In recognition of the rapidly increasing uptake of vaping by young people, the Government has recently announced additional restrictions on vaping products. Regulations are expected to be in force from August 2023 which will phase in the following policies over time:
 - New Specialist Vape Shops (SVRs) will not be able to open withing 300m of schools and marae.
 - Vape products and their packaging will only be able to have generic flavour descriptions to limit the enticing nature of flavoured vapes such as 'cotton candy' and 'strawberry jelly donut'.

- Decreasing the maximum nicotine salt content in single use (disposable) vapes from 50mg/ml to 35mg/ml so they are less addictive
- All vaping products will have removable batteries and child-safety mechanisms to improve their safety and better protect our young people.

The harm caused by smoking and vaping

10. The harm from tobacco smoking, including second-hand smoke, is well known and documented¹:

- Half of all long-term smokers will die from a smoking-related disease.
- Around 5000 people die each year in New Zealand because of smoking or second-hand smoke exposure. The equivalent of 13 people a day.
- The lifespan of those smokers who die early from smoking is, on average, reduced by 15 years.
- Tobacco use is the single largest cause of preventable death and chronic illness in this country.
- Kids who have a parent who smokes are seven times more likely to become smokers.
- Smoking prevalence and consumption is higher among Māori, young people and people with lower socio-economic status.

11. The level of harm caused by vaping has not been quantified in the same way as tobacco smoke, likely due to its relative 'newness' as a health risk and a corresponding lack of longitudinal data. However, the World Health Organisation (WHO) has broadly noted the following impacts globally²:

- E-cigarette emissions typically contain (varying amounts of) nicotine and other toxic substances that are harmful to both users, and non-users who are exposed to the aerosols second-hand. In addition, some products claiming to be nicotine-free have been found to contain nicotine.
- The consumption of nicotine in children and adolescents has deleterious impacts on brain development, leading to long-term consequences for brain development and potentially leading to learning and anxiety disorders.
- Some evidence suggests that never-smoker minors who use e-cigarettes are twice as likely to start smoking tobacco cigarettes later in life.
- Evidence suggests that these products are harmful to health and are not safe, however it is too soon to be sure of the long-term impact of using or being exposed to them.
- Accidental exposure of children to e-liquids pose serious risks as devices may leak, or children may swallow the poisonous e-liquid.

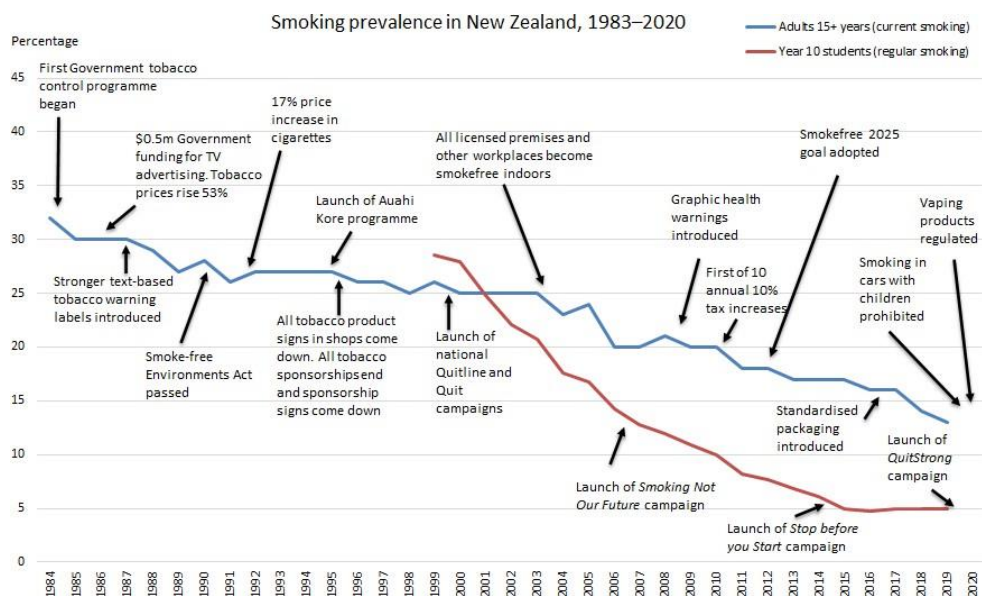
¹ <https://www.health.govt.nz/your-health/healthy-living/addictions/quitting-smoking/health-effects-smoking#:~:text=It%20slows%20your%20blood%20flow,fingers%20and%20toes%20become%20colder.&text=Your%20mouth%3A%20Smoking%20causes%20gum,oral%20health%20for%20>

² <https://www.who.int/news-room/questions-and-answers/item/tobacco-e-cigarettes>

Smoking Trends in Aotearoa

National tobacco smoking trends

12. Smoking rates nationally are continuing to decline, but smoking remains the biggest cause of preventable death in New Zealand. In 2021/22, 8.0% of adults were daily smokers, down from 9.4% the previous year and 16.4% in 2011/12.³
13. Smoking rates and smoking related harm are highest among Māori, Pacific peoples and those living in Aotearoa’s most disadvantaged communities. Daily smoking rates for 2021/22 were as follows: Māori (19.9%), Pacific (18.2%), and European/Other (7.2%).⁴
14. The below graph shows long-term trends of smoking prevalence in New Zealand, overlaid by central government regulatory initiatives aimed at smoking reduction.



Source: Ministry of Health https://www.health.govt.nz/sites/default/files/images/smoking_prevalence_graph.png

Kāpiti tobacco smoking trends

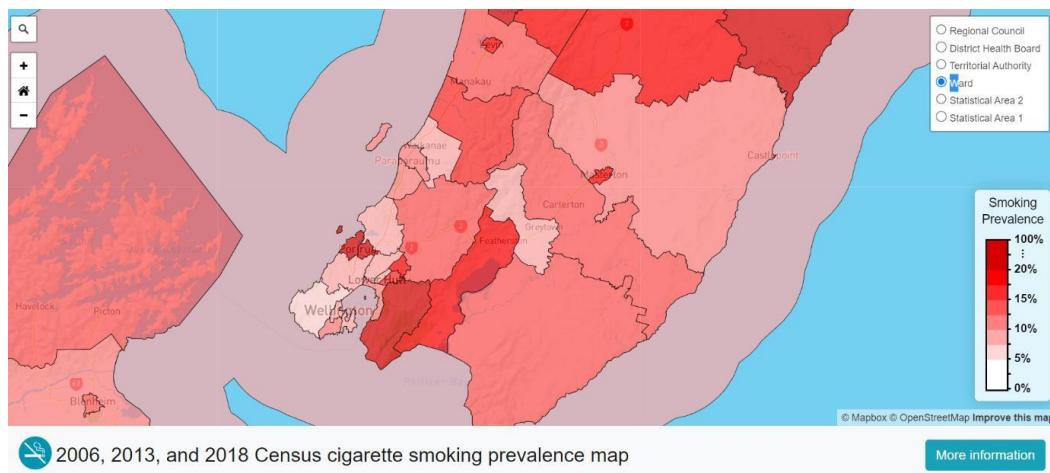
15. Kapiti’s experience of tobacco smoking largely mirror the trends noted above at a national level with smoking in Kapiti sitting at the national average of 11% in the 2018 census. We are also seeing an overall downward trend in regular smoking among our population.

³ <https://www.health.govt.nz/publication/annual-update-key-results-2021-22-new-zealand-health-survey>

⁴ <https://www.health.govt.nz/publication/annual-update-key-results-2021-22-new-zealand-health-survey>

16. While the vast majority of smokers in the Kāpiti district identify as being of European ethnicity (72% of Kāpiti smokers in the 2018 census⁵), proportionally our Māori and Pacific communities have higher rates of regular smoking than other ethnicities, as shown in the chart below. These higher rates of regular smoking among Māori in Kāpiti broadly mirrors national trends, however Māori in Kāpiti reported a lower overall smoking rate (23%) than Māori nationally (28%) in the 2018 census.

17. Geographically, Ōtaki has the highest prevalence of smoking across the Kāpiti district, while Waikanae has the lowest prevalence. This distribution is to be expected given the demographic profile of Ōtaki (with a higher proportion of youth and Māori than other areas of the district) and the associated trends noted above.



National vaping trends

18. E-Cigarettes were initially introduced as a tool to aid existing smokers to quit but is now widely used recreationally particularly among young people who have never smoked a traditional cigarette.

19. Data from the New Zealand Health Survey shows that while smoking rates are declining, vaping rates are increasing. Since 2019/20, increases in vaping have exceeded declines in smoking, especially among young people. This suggests that some people who have never smoked are taking up vaping.⁶ Some key national-level statistics on vaping from the New Zealand Health Survey are below.

- In 2021/22, 8.3% of people aged 15 or older were daily vapers. In 2019/20 only 3.5% of this population group were daily vapers.

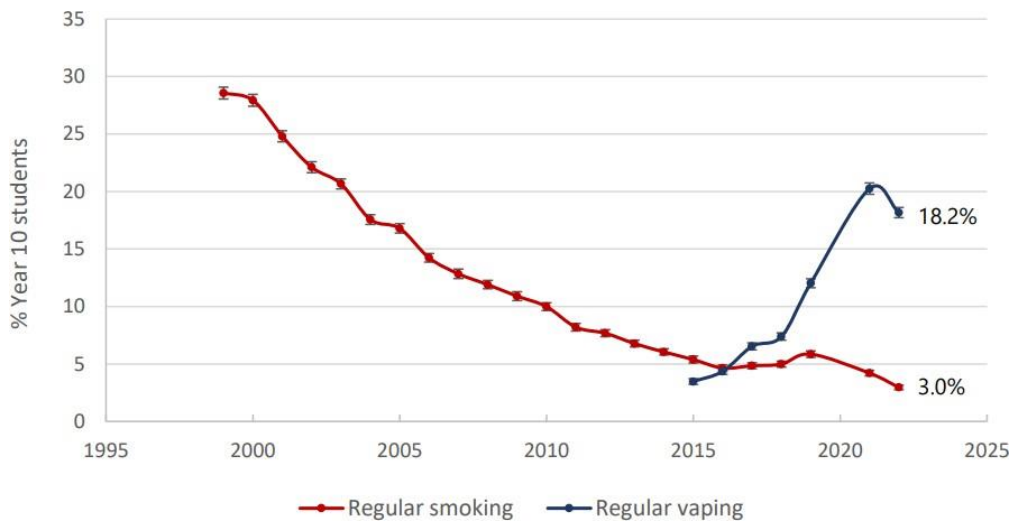
⁵ Note that ethnicity is self-reported, and individuals can select multiple ethnicities. Therefore, the sum of regular smokers by ethnicity exceeds the total population count. These figures should therefore be used with caution; however, they are still useful in showing an overall composition of smokers in Kāpiti.

⁶ <https://www.health.govt.nz/publication/smoking-status-daily-vapers-new-zealand-health-survey-2017-18-2021-22>

- Young people aged 18–24 had the highest rate of daily vaping in 2021/22 (22.9%), up from 5.0% in 2019/20.
- Most daily vapers aged 15 or older were either ex-smokers or current smokers. A relatively small, but increasing, proportion of daily vapers are people who have never been smokers - 18% of daily vapers in 2021/22, up from 7% in 2017/18.
- The smoking status of daily vapers varies by age:
 - Among daily vapers aged 25 or older, nearly all were ex-smokers (64%) or current smokers (26%).
 - Among daily vapers aged 18–24, 33% were ex-smokers, 21% were current smokers (dual users), and 37% were never-smokers (based on pooled data for 2020/21 and 2021/22).
 - Based on pooled data for 2020/21 and 2021/22, 1 in 14 young people aged 15–17 (6.9%) were daily vapers. Of these, 76% were never-smokers, 18% were ex-smokers and 6% were current smokers. This age group accounted for 4% of all daily vapers.⁷

20. According to the ASH Year 10 Snapshot Survey 2022⁸, daily smoking rates among Year 10 students (14- and 15-year-olds) in 2022 were at an all-time low of 1.1% down from 15.2% in 2000. Daily vaping among those who have never smoked showed a small but statistically significant increase from 3.1% in 2021 to 4.3% in 2022. However, regular⁹ vaping has shown a decline for the first time, as shown in the chart below.

Regular smoking (1999-2022) and regular vaping prevalence (2014-2022)



Source: [ASH Survey 2022](#)

⁷ Estimates for young people aged 15–17 is based on small numbers and should be interpreted with caution.

⁸ https://www.ash.org.nz/ash_year_10

⁹ “Regular” use is defined as participants that report smoking or vaping either daily, weekly, or monthly.

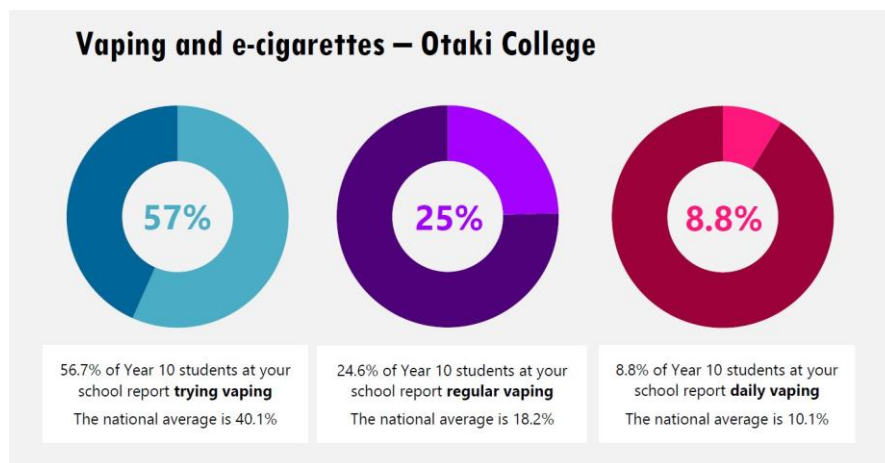
21. In the Secondary Principals' Association of NZ/ Asthma and Respiratory Foundation 2021 survey covering 19,000 Year 9 to 13 students, 27% of participants reported vaping in the last week, compared to 15% smoking traditional cigarettes.¹⁰

Kāpiti Vaping Trends

22. Data on vaping at the local level is sparse. While the New Zealand Health Survey 2021/22 has provided some national level data on vaping as noted above, this data is not yet available at a local level.

23. Given the lack of local vaping data, it is appropriate to apply what is known about vaping at the national level to Kapiti, as our community is not significantly different from the national population to assume that national level statistics won't apply. This approach is generally upheld by Kāpiti's smoking prevalence statistics broadly mirroring the national data.

24. Anecdotally, vaping is prevalent among college students in Kapiti, with the below infographic showing prevalence among year 10 students at Ōtaki college compared to



the national average.

Source: [2022 ASH Year 10 Snapshot Survey results – vaping-Otaki College](#)

The role of Councils in smoking prevention

25. Achieving the Government's goal of Smokefree Aotearoa by 2025 is a responsibility shared between central and local government, the health sector, tobacco control agencies, and communities.

26. Local government has a role in promoting the health of its communities through:

¹⁰ <https://www.asthmafoundation.org.nz/your-health/e-cigarettes-and-vaping/vaping-some-more-facts>

- section 11 of the Local Government Act 2002, which mandates local authorities to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future
- section 23 of the Health Act 1956, which mandates local authorities to improve, promote, and protect public health within its district.

27. The main ways local government can effect change in this area are largely limited to education, communication and prohibiting smoking in spaces owned and controlled by Council. While Central Government policy levers have much more scope to impact smoking in the community including taxation of tobacco products, restrictions on who can buy an/or sell tobacco products, and ultimately what products are legal to be sold in New Zealand – a comprehensive Smokefree Public Places Policy that supports the aims of current legislation and the Smokefree 2025 goal is a valuable addition to these primary levers.

28. The options available to local government are largely limited to regulatory tools that:

- educate the community about the harms of smoking
- prohibit smoking in spaces owned and controlled by Council.

What other Councils are doing?

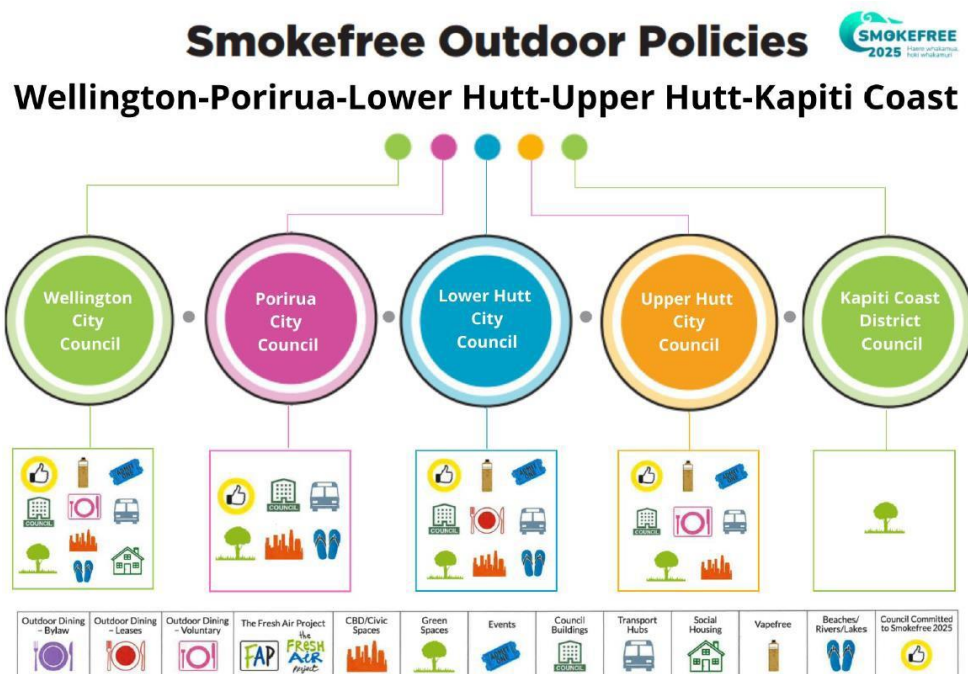
29. Most Councils in New Zealand have a smoke-free policy of some kind, ranging from very broad to very narrow. The table below provides a summary of other Council approaches to Smokefree Policies across the country:

Included under policy	# Councils	% Councils ¹¹	Notes
Parks/Playgrounds/sportsgrounds	59	100%	
Outside public buildings & facilities	44	75%	Within 4-10m of buildings.
Council run & funded events	44	75%	Condition of funding
Transport Hubs	29	49%	Bus shelters, Train Stations – 10m perimeter exclusion zone
CBD/Civic Spaces	21	36%	Varies from specific Civic spaces to Council owned pedestrian laneways to specified areas.
Social housing	17	29%	Mainly in common areas. WCC covers this off under <i>City Housing Smokefree Policy</i>
Beaches, Rivers, Lakes	13	22%	Mostly just beaches
Outdoor dining areas on council- controlled land – voluntary	12	20%	
Outdoor dining areas on council- controlled land – condition of lease	9 (Napier, Hastings, Westland, Grey, Hutt City, Waipa, Matamata)	15%	Condition of permit – Businesses not wanting to comply with the policy would not get the permits to use the footpaths.

¹¹ With a Smokefree policy in place. A handful of smaller Councils are yet to implement any form of Smokefree Outdoor Policies.

	Piako, Auckland, Wellington City)		
Vaping covered under policy	23	40%	These are where vaping is explicitly named, not just implied. Others imply that vaping is included.

30. Other Councils in the Wellington Region have already expanded their smokefree policies to include public transport hubs, outside council buildings and facilities, outdoor public events, and outdoor dining and drinking areas located on public land. The graphic below illustrates the variations in Smokefree Policy coverage across the Wellington Region (Note: Wellington City Council has now moved to compulsory Smokefree outdoor dining).



Source: [Maps of NZ Councils' Smokefree Outdoor Policies and Spaces | Smokefree](#)

31. No Councils in New Zealand have a Bylaw to prohibit smoking in New Zealand, although this option is common overseas, including Australia, where State specific legislation has been created to address smoking in outdoor public spaces giving them the power to enforce any smoking bans through the issuing of fines. In NZ, Government legislation does not empower Councils to enforce a smoking ban or issue fines, therefore rendering any potential Bylaw powerless. This issue is covered in more detail in section 58.

32. In many countries, including Australia, the uptake in underage people having access to vapes, and young people who don't smoke cigarettes taking up nicotine vaping, has prompted Government's to ban recreational vaping, making it available through

prescription only, in pharmaceutical looking packaging, in an effort to address the significant health risks posed by vaping particularly among young people.

Kāpiti's current Smokefree Parks and Playgrounds policy

33. Kāpiti Coast District Council adopted its first smokefree policy in 2008, stating *“That the Kāpiti Coast District Council adopts the concept of smoke-free Council parks and playgrounds for the Kāpiti Coast District to be implemented through education and promotes awareness through signage in key parks.”*
34. Due to its age, Council's Smokefree policy is largely out of step with both national legislation and the approach taken by other Councils across New Zealand and the Wellington region. There has been no review or amendment made to this policy since its adoption, and today Council's existing Smokefree Parks and Playgrounds Policy is one of the narrowest policies in scope compared to similar policies across the country.
35. The current Smokefree Parks and Playgrounds Policy (2008) was the first of its kind for Kapiti, and at the time was in line with other councils in the region. Upon adoption, Smokefree signage was erected at 20 playgrounds and 10 sports fields across the district chosen based on the level of usage and profile in the community.
36. The Policy has been considered largely effective in the areas covered. Following implementation of Kāpiti's Smokefree Parks and Playgrounds Policy in 2008, cigarette butt counts were carried out at each of the designated smoke free sites. These studies showed as much as a 70% reduction in cigarette butt litter after the policy was introduced. This supports the effectiveness of Smokefree Policies in deterring people from smoking in designated smokefree areas.

Purpose of the proposed policy changes

37. The new Smokefree Public Places Policy's main purposes are to:
 - Reduce the incidence of smoking and vaping in public places
 - De-normalise smoking and vaping behaviour in public places
 - Support healthy environments for our tamariki and rangatahi
 - Support and contribute to the Smokefree 2025 goal for New Zealand by discouraging smoking and vaping behaviours which have harmful health effects.
 - Support the Smokefree Environments Act 1990, including Smokefree workplaces and public areas.
 - Support the Smokefree Environment and Regulated Products (Vaping) Amendment Act 2020 and the Smokefree Environment and Regulated Products (Smoked Tobacco) Amendment Act 2023.
 - Support the Kāpiti Coast District Council outcome 'Strong communities - our communities are resilient, safe, healthy, thriving and connected'.

The draft Smokefree Public Places Policy is attached to this Statement of Proposal

Options considered by Council

38. Council considered the following additional increases in scope to the existing Smokefree Parks and Playgrounds policy:

Broadening the scope of the existing policy to include vaping

Considerations

39. Vaping was not included in Council's current smokefree parks and playgrounds policy, as it preceded the introduction of vaping. Vaping first began to appear on the NZ market in the mid-2000's and have become widely available over the last 5-7 years.

40. While vaping was initially introduced as a method of assisting existing smokers to quit smoking, as discussed in section 15 above, research is increasingly finding that:

- there is harm to users from vaping products (refer section 31)
- the prevalence of vaping is increasing among people who have never smoked, especially young people.

41. Taken together, these two trends warrant Council considering the inclusion of vaping in its smokefree policy and treating it in the same way as smoking. Taking this approach would also:

- Be consistent with providing healthy environments for the public free of second-hand smoke (of any kind)
- Reinforce the de-normalisation of all types of smoking products by reducing the incidence of all types of smoking in public
- Provide clear alignment with government legislation and with other Councils in the region.

What we propose

42. Council proposes that the Smokefree Policy be expanded to prohibit vaping in the same designated smokefree areas as specified for tobacco smoke.

Broaden the areas designated as smokefree/vapefree to include:

- (a) a wider range of council owned/controlled public spaces.
- (b) Outdoor dining & drinking areas on public land, events managed or funded by Council, and other areas identified as high-use smoking areas in the district.

Considerations

43. Smokefree public places provide a number of benefits for the community:

- **Healthier environment:** Smokefree public places protect people from the harmful effects of second-hand smoke, thereby reducing the risk of various health issues including respiratory problems, heart disease, and lung cancer.

- **Encouraging smoking cessation:** Smokefree policies can motivate smokers to quit or reduce their smoking habits by limiting the availability of places where smoking is allowed. Smokefree areas can act as a deterrent and provide additional support for those who want to quit smoking.
- **Social equity:** Smokefree public places can promote social equity by ensuring that everyone can enjoy public spaces without being subjected to the negative effects of smoking. This is particularly important for vulnerable populations such as children, pregnant women, and those with respiratory issues.
- **Positive role modelling:** Limiting the visibility and social acceptability of smoking, especially in places frequented by children and youth, can help prevent the initiation of tobacco use and create a culture of health and wellbeing.
- **Improved public health:** Smokefree public places contribute to improved public health outcomes. Research shows that when young people are protected from exposure to second hand smoke, they are less likely to take up smoking.

44. Council's current smokefree policy is limited to covering "Council parks and playgrounds". This has a particular focus on places where children are likely congregate and could be exposed to smoking and the risks associated with second hand smoke, however this is a very narrow application that is largely out of step with both Government legislation and policy as well as the approach of other Councils in the region. There are a number of similar public spaces where smoking is still permitted by the current policy that could be considered for inclusion in the smokefree policy:

1. All council owned parks, reserves, and sportsgrounds.
2. All council owned playgrounds, including skateparks.
3. Within 10 metres of outdoor public areas around council buildings and facilities.
4. Train stations, bus stops and shelters.
5. Beaches, rivers, lakes.
6. Other civic spaces.
7. Outdoor Dining on Public Land.
8. Events held on Council land or receiving Council funding.
9. Social Housing.

45. An assessment, outlined below, was undertaken on each of these options to determine the merit in expanding the policy to include these additional considerations.

Criteria:	Likely impact of Smoking/Vaping			Consistency		Ease of Implementation	
	Level of use by families, youth, and vulnerable people	Is it a constrained space or is there a lack of alternative options?	Is the exposure to smoking/smoke over a long duration?	with the rest of the region	with relevant partners	Council ownership/ management/ direct influence?	Requires cooperation of external parties to successfully implement
All Council owned parks, reserves and sportsgrounds	High	In some cases, space may be constrained. Spectators and players do not have a choice as to where the activity takes place and therefore whether they are exposed to smoke or not.	In some cases, yes (eg duration of a sports match).	Yes	Yes	Yes	No
All council-owned playgrounds and skateparks	High	Yes, playgrounds and skateparks are constrained spaces where the activity cannot be done elsewhere easily to avoid smoke.	Exposure could be for the duration of the visit.	Yes	NA	Yes	No

Criteria:	Likely impact of Smoking/Vaping			Consistency		Ease of Implementation	
	Level of use by families, youth, and vulnerable people	Is it a constrained space or is there a lack of alternative options?	Is the exposure to smoking/smoke over a long duration?	with the rest of the region	with relevant partners	Council ownership/ management/ direct influence?	Requires cooperation of external parties to successfully implement
Within 10m of Council buildings and facilities	Moderate	Particular constraints around entry/exit points. Council offers services and facilities that are unique and cannot be accessed by other means therefore leaving no choice for users other than to access the buildings directly.	No, likely to be short exposure as they enter/exit the building or walk past along the street.	Yes	NA	Yes, in most cases, however the 10m exclusion zone may also encroach on privately-owned land. However, given the nature of the proposed policy, this is unlikely to be problematic and would not be enforced.	No
Train stations, bus stops and shelters	Moderate	Yes, the shelters/stations etc are location specific, particularly in bad weather.	Could be for an extended duration while waiting for next service (~20minutes?)	Yes	Yes	Some yes, although majority are Metlink/GWRC/Kiwi rail owned.	Yes. Requires collaboration with GWRC/Metlink
Beaches, rivers, lakes	High	Not constrained, as these spaces are generally large and open enough for smoke to be easily avoided.	Could be for a longish duration, although as noted, can also be relatively easily avoided with some effort.	Mixed. Upper Hutt does not include. For the others only beaches are included in the Policy.	Yes	These are largely regional council owned/managed.	Yes. In partnership with GWRC.

Criteria:	Likely impact of Smoking/Vaping			Consistency		Ease of Implementation	
	Level of use by families, youth, and vulnerable people	Is it a constrained space or is there a lack of alternative options?	Is the exposure to smoking/smoke over a long duration?	with the rest of the region	with relevant partners	Council ownership/ management/ direct influence?	Requires cooperation of external parties to successfully implement
Other civic spaces	Moderate (depending on the space in question)	Variable. Constraints would depend upon the locations included as 'other' civic spaces.	Largely depends on the design and space.	Yes. Specific sites are identified by each council.	NA	Mixed ownership, some private (eg Coastlands) but others largely Council (eg Mahara Precinct).	Mixed, some will have private operators.
Outdoor dining	Moderate	Yes, there are a limited number of table options available if you want to dine outside.	Moderate - Likely to be for the duration of the meal.	Mixed – Wellington City and Lower Hutt compulsory Porirua and Upper Hutt voluntary.	NA	Managed through Council permits, and on Council owned land (footpaths)	Yes, hospitality businesses.
Events on Council Land	Mixed	Mixed – depends on the event and location.	Mixed – depends on the event.	Yes – except Porirua	NA	Yes	Yes, event organisers .
Events receiving Council funding	Mixed	Mixed – depends on the event and location.	Mixed – depends on the event.	Yes – except Porirua	NA	Mixed, but if note funding can be made conditional on smokefree status	Yes, event organisers .

What we propose

(a) The inclusion of a wider range of council owned/controlled public spaces.

46. Expanding the number of designated smokefree public places in the district will help safeguard the health and well-being of both smokers and non-smokers by reducing exposure to second hand smoke, encouraging smoking cessation by restricting smoking in public places and reducing the social acceptability and accessibility of smoking.
47. While Council must consider the ability of all members of the community to access public spaces, including smokers, it also has a role to promote the health and wellbeing of the community as a whole. On balance, Council considers that the benefits to the community, and particularly the long-term benefits to the health and wellbeing of our young people, in making a wider range of public spaces smoke-free (and vape-free) is justified.
48. We therefore propose that the smokefree policy be broadened to include the following sites immediately upon approval of the draft policy:
- All council owned parks, reserves, and sportsgrounds.
 - All council owned playgrounds, including skateparks.
 - Within 10 metres of outdoor public areas around council buildings and facilities.
 - Train stations, bus stops and shelters
 - Beaches, rivers, lakes.

(b) Outdoor dining & drinking areas on public land, events managed or funded by Council, and other areas identified as high-use smoking areas in the district.

49. From 2025 we propose extending the Smokefree Parks and Playgrounds Policy to include:
- outdoor dining and drinking areas on council owned land
 - events held at any of Council's smokefree public spaces
 - public events receiving Council funding.
50. Community support for smokefree outdoor areas is well documented, however, there is little local data on business owner/manager's perceptions of smoking, smokefree policy and smokefree outdoor dining/seating areas. National and international evidence indicates that there is a positive or neutral financial impact on businesses from making outdoor areas smokefree. Feedback from many businesses in NZ and overseas is that smokefree outdoor dining areas provide a better environment for staff and are more enjoyable for customers¹². Case studies from Australia indicate this support increases once the public experience smokefree outdoor dining. Following the introduction of the *Smokefree Environment Act 2000* in New South Wales, businesses voiced concerns about potential revenue loss. A survey carried out shortly after introducing

¹² Scollo M, Lal A, Hayland A, Glantz S. Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry. *Tobacco Control*. 2003;12:13–20

smoke-free dining, revealed that 76% of proprietors surveyed reported normal patronage and 14% reported increased patronage¹³.

51. These additional smokefree public places are viewed as Phase 2 of implementation with a longer lead in timeframe to allow both businesses to adjust to the change – allowing time for staff training and appropriate signage to be put in place, and council staff to provide the necessary support and education.

Regulatory tools and enforcement

Considerations

52. Council's current smokefree policy is aligned with the vast majority of approaches by Councils across New Zealand in that it is educational and non-punitive in nature. Rather than seeking to punish smokers and vapers with fines or other enforcement mechanisms for breaching the policy, the intent is largely to encourage behaviour change over time through the de-normalisation of the use of tobacco and vaping products by encouraging people not to smoke or vape in designated smokefree and vape-free outdoor public places.

53. An alternative tool available to Council would be to develop a Smokefree Public Places Bylaw. There are two main legislative mechanisms for this to take place:

- Section 145 of the Local Government Act 2002 (LGA 2002): Provides general bylaw making powers to local authorities, for specific purposes, including (b) protecting, promoting, and maintaining public health and safety
- Section 23(e) of the Health Act 1956: establishes the power for local authorities to make bylaws under and for the purposes of this Act or any other Act authorising the making of bylaws for the protection of public health.

54. However, Bylaws made under either of these legislative mechanisms have a high threshold for enforcement, as neither piece of legislation allows a bylaw to be enforced through an on-the-spot infringement fine by Police or Council enforcement officers. The process of bringing about a prosecution for a violation of a bylaw is lengthy, expensive, consumes the time and effort of enforcement officers, and the costs are not recoverable by Council or the Police. This means that any Bylaw made is unlikely to be enforceable in a meaningful way, and it is likely to be an unwieldy mechanism that is likely to be considered a disproportionate response to the issue.

55. The Local Government Act requires that before adopting a bylaw, a local authority must demonstrate that a bylaw is the most appropriate way of addressing the problem identified, and that it is consistent with the New Zealand Bill of Rights Act (NZBORA) 1990. Given that smoking remains a legal activity in New Zealand, a smokefree bylaw extending across a wide range of locations and contexts would be difficult to justify and vulnerable to legal challenge. Furthermore, smoking is recognised by public health professionals as a complex addiction with no single easy solution. The heavy-handed

13 Chapman S, Borland R, Lal A (2001) Has the ban on smoking in New South Wales restaurants worked? A comparison of restaurants in Sydney and Melbourne. *Med J Aust* 174: 512-515.

use of a Bylaw could undermine the intention and credibility of the policy by stigmatising and punishing those who are struggling with a recognised addiction.

56. Evidence from overseas shows that even where bylaws exist and authorities have the power to levy instant fines or to prosecute, the use of these powers is rare and most effort is put into communicating Smokefree Policies through signage, information campaigns, smoking wardens, and public health education.

What we propose

57. Our approach under the existing Smokefree Parks and Playgrounds Policy is about positively encouraging smokefree and vapefree areas, rather than punishing people for smoking or vaping. Council considers that this is the most appropriate tool and approach and proposed that the revised Smokefree Public Places Policy will continue to take an educational approach about the physical, social, and environmental benefits of being smokefree and vapefree.

Options considered but not progressed

58. Other outdoor public spaces were considered as part of the review but have not been included in the revised policy for the following reasons:
- **CBD/Civic spaces** – further investigation is required to determine where appropriate CBD boundaries would lie and how this wider restriction could be implemented to achieve the greatest impact. More general geographical restrictions on smoking may be better achieved once the public has had time to adjust to the initial policy changes and the notion of Smokefree public spaces becomes more engrained. The idea of more sweeping geographical restrictions on smoking is one that may be best worked through as part of the wider Health Strategy.
 - **Social Housing** – Some councils have included Social Housing in their Smokefree Public Places Policies. Wellington City Council is the only council in the Wellington Region to prohibit smoking in a City Housing building or unit, and in communal areas. Designated Smokefree areas are provided in some complexes.

The only Social Housing Kāpiti District Council owns is the housing for older persons and it could be considered too heavy handed to prohibit people smoking in their own homes. It may be unfair to limit an individual's access to social housing based on their addiction to smoking, or to deny them access to safe housing. This is an area that could be considered as part of the review of our Older Persons Housing.

Summary of proposal

59. Kapiti Coast District Council proposes to adopt a Smokefree Public Places Policy aimed at contributing to the goal of a Smokefree Aotearoa by supporting a smokefree and vapefree Kāpiti.
60. The Policy takes an educational, non-punitive approach. Policy compliance will be encouraged by utilising Councils unique ability to engage with its community, the use of engaging/targeted signage, and empowering the public to model and promote smokefree behaviour.

61. Following adoption of the policy, the following places would become smokefree/vapefree across the district:

- All council owned parks, reserves, and sportsgrounds
- all council owned playgrounds, including skateparks
- within 10 metres of outdoor public areas around council buildings and facilities
- train stations, bus stops and shelters
- beaches, rivers, lakes
- outdoor Dining on Public Land
- events held on Council land or receiving Council funding.

62. From 2025, all outdoor dining and drinking areas on council owned land will be required to become smokefree/vapefree as a condition of lease as existing leases are renewed and new ones issued.

63. From 2025 a smokefree/vapefree requirement will be included in all funding agreements as they are negotiated or renewed.

64. To implement this policy Council will:

- display appropriately sized/themed signage with smokefree and vapefree messaging at council buildings, facilities, parks and reserves areas as signage needs to be replaced or added to newly designated smokefree/vapefree areas
- prioritise those areas commonly used by children & young people as designated smokefree/vapefree areas
- utilise council communications channels to promote smokefree/vapefree messaging and direct people to appropriate support services
- work with outdoor-dining and bar venue operators to become smokefree by 2025
- work with event organisers to become smokefree by 2025
- Alter all dining lease agreements/contracts on public land to reflect the smokefree requirement
- Update funding agreements for use with event organisers to reflect smokefree requirement
- make smokefree and vapefree signage and stickers available for event organisers and hospitality businesses
- promote and facilitate the inclusion of smoking cessation service providers at public events.