

POLICY NAME: ALCOHOL REGULATION ON PUBLIC LAND
POLICY REF: A02
MEETING ADOPTED:
POLICY HISTORY: 280110/25; 2205/33



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1 OBJECTIVE

The objectives of this policy are:

- a) to provide guidelines on the basis for implementing alcohol regulations on [public land](#); and
- b) to provide an authority for the implementation of future changes to alcohol regulation in public areas that may be required to meet changing conditions.

2 POLICY

2.1 Alcohol-Free Zones generally

- a) Ballina Council will continue to work with the NSW Police and respond to community concerns with regard to the management of alcohol consumption in public places.
- b) Ballina Shire has [Alcohol-Free Zones](#) in Ballina, Lennox Head, Wardell and Alstonville, and will continue to maintain these Alcohol-Free Zones.
- c) Should Alcohol-Free Zones be required in other locations within the shire, consideration will be given to such requests and any comments from the NSW Police, and a report on such requests will be prepared for consideration by Council.
- d) To assist with the operation of the Alcohol-Free Zone in Lennox Head, Ross Park and the surrounding public reserve are designated as Alcohol Prohibited areas 24 hours a day, every day.

2.2 Sports fields and sporting events

All sports fields and surrounding reserves are Alcohol Prohibited areas. This declaration will make sporting events more family friendly, with the consumption of alcohol limited to areas of the reserve that have been licensed for the sale of alcohol. This declaration will assist the clubs in meeting their licensing obligations by ensuring the only alcohol that is consumed at a sporting event must be purchased from the licensed bar and consumed in the licensed area.

2.3 Delegation to the General Manager

- a) Given the changeable nature of public behaviour and in order to respond to changes, Council will provide delegated authority through this policy to the General Manager to put in place [Alcohol Prohibition](#) in accordance with section 632(2)(e) of the *Local Government Act 1993* in locations experiencing problems relating to the consumption of alcohol.
- b) This may involve the imposition of a total prohibition of the consumption of alcohol, if deemed necessary.

2.4 Special events

- a) On nominated days such as ANZAC Day, New Year's Eve, New Year's Day, Australia Day and during special events, Council may impose Alcohol Prohibition in a park or reserve where problems have been experienced, or to prevent the consumption of alcohol at events where it is deemed inappropriate to consume alcohol.
- b) Such declarations will be for a specific time period and will be removed when the event or holiday has finished. Such declarations will be advertised prior to the date of the Alcohol Prohibition, and details of the prohibition will be signposted in the reserve.

3 BACKGROUND

The NSW Government has made clear its determination to tackle the growing problem of anti-social behaviour and alcohol-related violence in our community. The Ballina community has further endorsed this concern regarding public security in a Satisfaction Survey that was carried out by Council.

The excessive consumption of alcohol in public places results in anti-social behaviour and can lead to violence and damage to both private and public property.

In order to assist the Police and respond to the community's requests to manage the problems associated with such behaviour, regulations on the consumption of alcohol in public places have been implemented in Ballina Shire.

There are two forms of alcohol regulation that are available to manage alcohol consumption in public areas. These are Alcohol-Free Zones and Alcohol Prohibition.

3.1 Alcohol-Free Zones

The principal object of an Alcohol-Free Zone is to prevent disorderly behaviour caused by the consumption of alcohol on public roads, footpaths or in public car parks in order to improve public safety.

Alcohol-Free Zones provide an early intervention measure to prevent the escalation of irresponsible street drinking to incidents involving serious crime.

Alcohol-Free Zones have been implemented in the Ballina, Lennox Head, Wardell and Alstonville CBDs.

3.2 Alcohol Prohibition

Pursuant to section 632(2)(e) of the *Local Government Act 1993*, Council can prohibit the carrying and/or consumption of alcohol in public areas such as parks, reserves and beaches by the placing of signs prohibiting these activities.

Council has in place a prohibition on the carrying and/or consumption of alcohol in all public areas within the shire from 10.00 pm to 7.00 am every day.

While Ballina Shire has in place these regulations prohibiting the consumption of alcohol in public places, there is a need to adapt to the changing patterns of behaviour and to have in place a more flexible means of adapting to such changes.

Council also needs to balance the regulation of alcohol in reserves and consideration of the majority of the community who are responsible in their consumption of alcohol.

4 DEFINITIONS

Alcohol-Free Zone: Applies to public roads, footpaths or public car parks that have been declared as Alcohol-Free Zones in accordance with the [Ministerial Guidelines on Alcohol-Free Zones 2009](#). This declaration prohibits the carrying and consumption of alcohol in these places. Alcohol-Free Zones are enforced by the Police. This regulation can only apply to roads, footpaths and public car parks.

Alcohol Prohibition: The prohibition of carrying and/or consumption of alcohol in a designated reserve or park, which is implemented by resolution of Council pursuant to section 632(2)(e) of the *Local Government Act 1993*. This regulation cannot be used to regulate the consumption of alcohol on roads, footpaths and in public car parks.

Council: Ballina Shire Council

Public land: Land under the ownership or care and control of Council.

5 SCOPE OF POLICY

This policy applies to community members.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) *Local Government Act 1993*
- b) *Crown Lands Act 1989*
- c) [Ministerial Guidelines on Alcohol-Free Zones 2009](#).

7 REVIEW

The Alcohol Regulation on Public Land policy will be reviewed at least every four years.

POLICY NAME: BUSKING
POLICY REF: B01
MEETING ADOPTED:
POLICY HISTORY: 220704/012



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1 OBJECTIVE

The objectives of this policy are:

- a) to encourage activities that contribute colour and life to the town centres and provide opportunities for public performances;
- b) to provide an equitable system of allocation of popular busking sites in the town centres among the buskers earning a living through their art form;
- c) to identify suitable locations for different busking types; and

- d) to minimise negative impacts of buskers operating in the Ballina Shire area.

2 POLICY

2.1 Obtaining a Busking Approval

- a) Any busker performing within Ballina Shire must have the approval of Council to do so. [Applications for Busking Approval](#) may be made, during business hours, at the Council's Customer Service Centre.
- i) Buskers performing acts **which involve** the use of [dangerous materials](#) or [dangerous implements](#) must obtain an approved **Special Busking Approval**.
- ii) Buskers performing acts **which do not involve** the use of *dangerous materials* or *dangerous implements* must obtain an approved **Standard Busking Approval**.
- b) Applicants must agree to adhere to the conditions of holding a Busking Approval, provide all the information requested on the Busking Application form and pay the prescribed fee (identified in the [adopted Fees and Charges](#)). Approvals may be issued for either a 3 or 12 month period.
- c) The following information must be provided when applying for a **Standard Busking Approval**:
- i) Passport photograph.
- ii) One of the following forms of proof of identity:
- (1) a current motor vehicle drivers licence;
- (2) a student identity/Proof of Age Card; or
- (3) a current passport.
- iii) If under the age of 18 years, your parent or guardian is required to complete a consent form.
- d) The following additional information must be provided when applying for a **Special Busking Approval**:
- i) A current First Aid Certificate.
- ii) Evidence of holding relevant licences/certificates, eg chainsaw operators certificate, pyrotechnics certificate.
- iii) Evidence of holding public liability insurance indemnifying Council to the value of \$5 million.

2.2 Public Liability

- a) Busking is an activity that Council has inherently only a very limited ability to control. Accordingly, Council cannot accept liability for any acts or omissions of buskers, whether or not they hold an approval issued by Council. By issuing approvals to buskers, Council does not assume any responsibility for any public

liability claims made against buskers, nor does the issue of an approval imply that the busker is independently insured for public liability. Council does not maintain insurance for the activities of buskers.

- b) Council requires holders of **Special Busking Approvals** for acts involving the use of *dangerous materials* or *dangerous implements* to hold public liability insurance indemnifying Council to the value of \$5 million.

2.3 Terms of Holding a Busking Approval

- a) Busking Approvals are valid for a period specified on the approval, and may remain valid for 3 or 12 months from the date of issue.
- b) Approvals are not transferable or refundable.
- c) Busking Approvals may be issued to individual buskers or groups. However, the name of each busker in a performance troupe must be listed on the application form and all performers listed on the approval must be performing when the group is performing. Members of the troupe cannot be omitted or substituted.
- d) The requirements of this policy relating to the payment of the prescribed fee and presentation of proof of identity are waived for persons under the age of 18 who are attending school. In such cases the busking activity is only to occur on weekends, and in public and school holiday periods. The remaining requirements and conditions of this policy still apply and such persons must still obtain a Busking Approval to busk.
- e) Details of buskers holding approvals to busk will be entered into a Register of Approvals granted by Council pursuant to section 113 of the *Local Government Act 1993*. Additionally, pursuant to sections 113(2) and 113(5) of the Act, the information recorded will include the name and address of the person or persons to whom the approval is granted, and this information will be available for public inspection without charge during ordinary office hours.
- f) Pursuant to sections 89, 109, 110 and 124 of the *Local Government Act 1993*, Council may revoke or modify approvals if the approval holder fails to comply with the requirements and conditions of approval. Council rangers may confiscate approvals for non-compliance. Council may serve notice upon the person or persons holding a Busking Approval, giving reasons for the revocation or modification of the approval and providing the approval holder with the opportunity to show cause why the approval should not be revoked or modified.

2.4 General Busking Conditions

All buskers must adhere to the following conditions at all times:

- a) Buskers must display their **Standard Busking Approval** in a prominent, highly visible position in the busking site at all times during their [performances](#).
- b) Buskers must not interfere with pedestrian flow or public amenities or cause obstruction to traders or delivery or emergency vehicles, including by way of encouraging audience formation in such a manner as to cause such interference.

There must be a minimum two (2) metre pedestrian corridor. In maintaining this corridor the busker must take into consideration other obstructions on the footpath

(eg outdoor dining areas, public seats, power poles) so that a continuous corridor is maintained at all times.

- c) Buskers must keep the site in use clean while they are working and ensure that their use of the site does not pose a threat to public safety.
- d) Buskers must not consume alcohol or perform under the influence of alcohol.
- e) Buskers should be aware of their responsibilities with regard to the [Work Health and Safety Act 2011](#) and the [Work Health and Safety Regulation 2011](#).
- f) The distance between busking acts shall be a minimum of 30 metres.
- g) On any one day, buskers may perform for a total period of up to three (3) hours at the same spot. However, the performances must be of a maximum duration of one (1) hour, and there needs to be at least one (1) hour between performances.
- h) Buskers may receive voluntary donations from the audience, but may not [solicit funds](#). An exception to this applies for performers of [circle acts](#), who may invite donations at the conclusion of the performance.
- i) The only articles that may be sold by the busker are recordings consisting of the busker's own work. Buskers may not offer other goods and services for sale, display, demonstrate or advertise goods for sale or associate themselves with such advertising in conjunction with their performance.
- j) Buskers may not perform within five (5) metres of the entry to retail outlets without approval from affected shop or property owners.
- k) Buskers may not perform in front of, or beside bank automatic teller machines (ATMs), or within 10 metres of any public telephone.
- l) Buskers may not perform within 10 metres of any street intersection or pedestrian crossing.
- m) Buskers using amplification are restricted to battery-operated amplifiers. Amplified acts may only be performed between the hours of 7 am and 10 pm.
- n) Council reserves the right to modify or revoke any Busking Approval if the performance results in offensive noise, within the terms of the *Protection of the Environment Operations Act 1997*. Further, Council rangers and Police officers are empowered, under provisions of the *Local Government Act 1993* and the *Protection of the Environment Operations Act 1997*, to require the immediate cessation of any performance that results in excessive or offensive noise.
- o) Buskers may not perform during [special events](#), unless agreed by event organisers. Please check with Council to determine busking restrictions applicable during *special events*.
- p) Buskers must be mindful of, and respect the rights of patrons using public parks and reserves for recreation.
- q) Buskers may not sit or use public seating/benches while performing.

- r) Buskers may only use *dangerous materials* or *dangerous implements* if they hold a **Special Busking Approval** to do so.
- s) Buskers must comply with directions issued by officers of the NSW Police Service, Ambulance, Fire and any other Emergency Services.
- t) Council rangers reserve the right to prohibit the use of any area while public works are in progress.
- u) Council rangers may at any time request a busker to cease busking if the officer is of the opinion that the performance is causing public inconvenience, or is likely to cause harm to the public or property. The busker must immediately comply with such a request.
- v) Busking may include *pavement art* where it can be seen as a form of public entertainment under the guidelines of the Busking policy, with all the existing conditions applying and the following specific conditions:
 - i) *Pavement art*, for the purposes of this policy, is defined as renderings done on removable surfaces such as canvas or plastic, displayed on the pavement. Drawing directly on the pavement is prohibited.
 - ii) Individual renditions of the artist's work may not be [offered for sale](#), or sold to the public.
 - iii) Any proposed material to be used in carrying out *pavement art* must not be capable of leaving any mark or residue on the pavement.
 - iv) The positioning of the artwork must not be such as to be likely to cause a public hazard.
- w) Buskers must be aware and adhere to the restrictions placed on busking in certain places within the shire. These areas, termed [restricted areas](#), are identified in the Appendix. Buskers performing in *restricted areas* must adhere to the restrictions identified in [Table 1 of the Appendix](#).
- x) *Circle acts* and acts which involve the use of percussion instruments (such as drums and cymbals) may only be performed in [designated sites](#) as identified in [Table 2 of the Appendix](#).

2.5 Special Busking Approval Conditions

Performers of acts which involve the use of *dangerous materials* or *dangerous implements* must obtain a **Special Busking Approval**. Holders must:

- a) Not be younger than 18 years old.
- b) Comply with the General Conditions for Busking.
- c) Comply with the Special Conditions for Special Busking Approval holders.
- d) Hold public liability insurance indemnifying Council to the value of \$5 million.

2.6 Special Conditions for Special Busking Approval Holders

Buskers holding a **Special Busking Approval**, when using *dangerous materials* or *dangerous implements* in their acts, must adhere to the following additional conditions in the interests of public safety, and their own. The Special Approval busker must, at all times:

- a) Only perform acts involving the use of *dangerous materials* or *dangerous implements* in the location identified by the symbol “S” on [Map 1 in the Appendix](#).
- b) Ensure the health and safety of the audience witnessing the performance.
- c) Ensure that public property is not damaged in the course of the performance.
- d) Define the performance space to be used by establishing a physical boundary of **at least two (2) metres** between herself/himself and the audience, utilising one of the following options:
 - i) Roped or chained off area.
 - ii) Chalk line (if the surface to be drawn upon is not of a porous material such as granite and sandstone, and if the line drawn is water-soluble and removed once the busker has completed the act).
- e) If the performance utilises fire or flammable materials, include a WorkCover-approved fire blanket and a dry chemical fire extinguisher in their performance kits. These items are to be kept visible and accessible throughout the performance.
- f) Have a First Aid Kit and First Aid Officer present during the performance.
- g) In the case of the use of flammable liquids:
 - i) Fuels that can be used are limited to kerosene, firewater or scented lamp oils (eg citronella) only. No other fuels will be approved.
 - ii) Store and transport any flammable liquids approved under the Code of Practice in accordance with section 7 of the *Australian Dangerous Goods Code*, that is:
 - (1) Portable plastic containers of no greater than a 5 litre capacity.
 - (2) Containers conspicuously marked with the words:
 - (a) **HIGHLY FLAMMABLE**, in capital letters on both sides of container;
 - (b) “Class 3 Flammable Liquids”; and
 - (c) the name of the liquid in the container, eg kerosene, etc.
- h) Use an appropriate lidded container as a drip tray for flares or torches, or preferably use a pre-soaking method for the flares or torches. Council will not tolerate drip stains on ground surfaces that are not immediately removed or able to be removed by the busker after the act has been completed. It is recommended that performers carry a wipe-up towel that can be used to wipe away spills from concrete or when shaking off excess fuel from implements prior to performing (rather than shaking it onto the ground).

- i) If using *dangerous implements* in a performance, as defined under the Dangerous Goods Act, clauses 14, 31, 239, 240, 242 and 248, covering the use and packaging of prohibited items, all edges on metal implements must be blunted and rendered non-dangerous (including chainsaws and other mechanical devices). An implement is determined as blunt if it is incapable of piercing human skin when pressure is directly applied to its edge or point against human skin.
- j) Hold appropriate licences/certificates, eg chainsaw operators certificate, pyrotechnics certificate.

3 BACKGROUND

Ballina Shire Council recognises that:

- a) buskers make an important contribution to the cultural life of a town by reflecting styles, values and the issues of society at large;
- b) buskers provide entertainment and thought-provoking experiences to visitors and residents;
- c) busking is a valid means for people to make a living; and
- d) busking should not interfere with pedestrian traffic, the conduct of business, or impact on public safety.

4 DEFINITIONS

Busker: An entertainer who provides performances for the public by playing a musical instrument, dancing, singing, pavement art, clowning or juggling, or performing other acts of a similar nature in public places.

*The following activities are **not** considered to be busking under the terms of this policy and, as such, approval will not be issued:*

- a) *tarot card and palm readers, fortune readers;*
- b) *artists selling their works (such as portrait artists);*
- c) *masseurs or masseuses;*
- d) *vendors of any kind;*
- e) *solicitors of money for any other purpose; or*
- f) *any like act or activity.*

Circle acts: Structured performances requiring the audience to stop and watch or participate in the performance.

Council: Ballina Shire Council

<i>Dangerous implements:</i>	Include knives, spears, swords, spikes, heavy or sharp implements of any kind that pose a threat of harm to the general public.
<i>Dangerous materials:</i>	Include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements, or anything giving off a level of heat or toxicity that poses a threat of harm or damage to members of the public and public property.
<i>Designated sites:</i>	Specified sites (identified in Map 1 and Map 2) where particular busking acts can only be performed (refer to Table 2).
<i>Offering for sale:</i>	The display or demonstration of items, particularly multiples of items, with an implication that they are available for sale or otherwise in exchange for money.
<i>Pavement art:</i>	Renderings done on removable surfaces such as canvas or plastic, displayed on the pavement.
<i>Performance:</i>	Musical, dramatic or other entertainment substantially involving musical, theatrical or circus performance skills.
<i>Restricted areas:</i>	Specified areas (identified in Map 1 and Map 2) that have additional conditions or restrictions placed on busking within them (refer to Table 1).
<i>Soliciting of funds:</i>	The act of asking, begging or requesting money or goods from members of the public.
<i>Special event:</i>	A function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade.
<i>Walk-by acts:</i>	Performances where the audience is not required to stop and watch.

5 SCOPE OF POLICY

This policy applies to community members.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Commercial Use of Footpaths policy](#)
- b) *Local Government Act 1993.*

7 REVIEW

The Busking policy will be reviewed at least every four years.

APPENDIX 1 – RESTRICTED AREAS AND DESIGNATED SITES

The following special conditions apply to areas identified as *restricted areas* and *designated sites* in Maps 1 and 2:

- 1 Busking in *restricted areas*, as identified in [Map 1](#) and [Map 2](#), is approved only in accordance with restrictions identified in [Table 1](#).
- 2 Percussion busking acts may only be performed at *designated sites* identified with the symbol “P” on [Map 1](#) and [Map 2](#), and defined in [Table 2](#).
- 3 [Circle acts](#) are only approved in designated Circle Act sites, identified with the symbol “C” on [Map 1](#) and [Map 2](#), and defined in [Table 2](#).
- 4 Acts involving the use of [dangerous materials](#) or [dangerous implements](#) are only approved in the site identified by the symbol “S” on [Map 1](#).

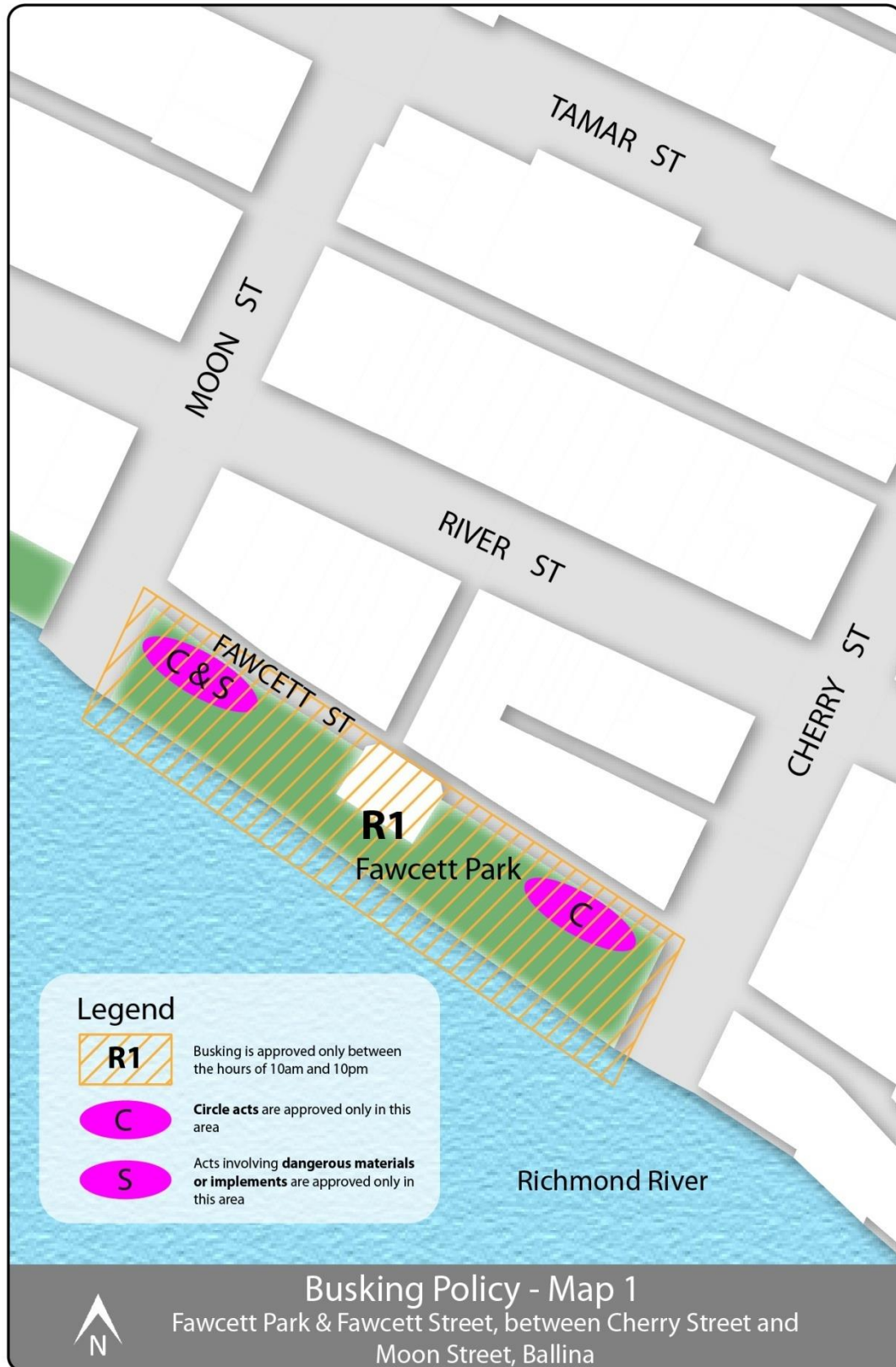
With reference to attached Maps 1 and 2, the following *restricted areas* are identified for the purpose of the Ballina Shire Busking policy:

TABLE 1 – RESTRICTED AREAS			
Symbol	Description of Area	Restriction to User/Usage	Refer to Map
R1	Fawcett Park and Fawcett Street, between Cherry Street and Riverwalk Arcade Ballina	Busking is approved only between the hours of 10 am and 10 pm	1
R2	Ballina Street Lennox Head, between Park Lane and Byron Street	Busking is approved only between the hours of 10 am and 10 pm	2

With reference to the attached Map 1, the following *designated sites* are identified for the purpose of the Ballina Shire Busking policy:

TABLE 2 – DESIGNATED SITES			
Symbol	Designation	Description of Area	Refer to Map
C	<i>Circle acts</i>	Fawcett Park – location shown on map	1
P	Percussion acts	No allocations made	N/A
S	Acts involving the use of <i>dangerous materials</i> or <i>dangerous implements</i>	Fawcett Park – location shown on map	1

NOTE: Buskers performing acts involving the use of *dangerous materials* or *dangerous implements* must obtain a **Special Busking Approval** to do so.





POLICY NAME: BANNER POLES
POLICY REF: B02
MEETING ADOPTED:
POLICY HISTORY: 260810/34; 271005/038; 280814/21



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1 OBJECTIVE

This policy provides guidelines to determine what activities can be promoted through banners displayed on banner poles throughout the shire.

2 POLICY

- a) The banner poles referred to in this policy are fold-down poles owned and maintained by Council. These poles do not require the assistance of a cherry picker or elevated work platform to raise or lower banners.

2.1 Purpose of the Banner Poles

- a) The primary purpose of the banner poles is to promote activities that provide a community benefit.
- b) First priority for use of the poles will be for Council co-ordinated activities or promotions.
- c) If no Council co-ordinated activities are allocated to a particular time period and/or banner poles, then Council will consider applications from other community-based activities.

2.2 Permitted Users and Activities

- a) Applications for use of the banner poles will only be approved for not-for-profit groups or agencies (such as State or Federal Government Departments) or institutions (such as schools and hospitals) providing a service within the Ballina Shire local government area.
- b) As a general rule the [special event](#) being promoted must have a strong community focus. However, if the special event is commercially driven, the co-ordinator or promoter of that special event must be a not-for-profit group, eg Chamber of Commerce – annual sales.

2.3 Finance

The banner poles are to be operated on a not-for-profit basis. Council will charge a minimal fee to recover operating costs associated with the use of the poles. The fee is included in [Council's annual fees and charges](#).

2.4 Banner Design

- a) Banners are a decorative medium, intended to complement other promotional material, and they require specialist design. Professional designers should be engaged where possible.
- b) To maximise the impact of banners, banner design should consider the following points:
 - i) graphics should be simple and bold;
 - ii) use text only where it forms part of the established image of the special event or logo;
 - iii) avoid dates and venue information, which are difficult to read; and
 - iv) avoid white backgrounds, which soil easily and may be difficult to see against the backdrop.
- c) Council reserves the right to refuse permission to display a banner on any grounds, but particularly banners which may:
 - i) project an offensive message;
 - ii) display an offensive image;

- iii) use offensive language;
- iv) incite hatred or aggression in any form;
- v) be unlawful under local, state or federal law; or
- vi) be considered as promotion of a political, racial or religious nature.

2.5 Banner Specifications

- a) Where new banners are to be manufactured, environmentally friendly materials are to be used where possible to be in keeping with Council's commitment to reduce our environmental footprint.
- b) The size requirement for banners is 2150 mm tall x 850 mm wide. This includes a triple sewn 100 mm wide hem tube at the end of each banner. The hem tube is to be open from one side of the banner to the other, like a tube, to slide over the horizontal arms.
- c) The banner material used must be "breeze through material (mesh type)" or heavy gauge sign vinyl. These materials are available from professional sign writers.
- d) Banners made from vinyl material must have 4 semi-circle flaps cut through the centre of the banner, with a minimum 200 mm radius.

2.6 Conditions of Use

- a) Applications must be made on [Council's approved banner pole application form](#) and be received by Council at least 14 days before the commencement of the requested period of banner display.
- b) Prior to the application being approved, Council must be in receipt of the [applicant's](#) public liability certificate of currency with a minimum coverage level as recommended by Council's insurance brokers.
- c) Council officers must erect the banners to ensure all work health and safety regulations are met.
- d) To avoid deterioration of the banners and to ensure that use of the banner poles is evenly distributed, community-based banners may only be erected 14 days before the special event and must be taken down the day after the special event. Council sponsored special events and messages may be displayed for longer periods.

2.7 Sponsors

Acknowledgement of sponsors on banners is permitted to assist in defraying costs. However, a maximum 10 per cent of the banner area may be allocated for direct sponsorship recognition so that each banner does not become solely a promotional tool for the sponsor(s).

3 BACKGROUND

Council has a number of banner poles throughout the shire. Banners displayed on these poles provide a vibrant, attractive and cost effective method of establishing a visual presence for special events and activities.

Council regularly uses the banner poles to display community messages on a wide range of issues (eg water saving measures, special events and messages of goodwill). However, as the poles are not in use at all times, there are opportunities for the poles to be used to promote other activities.

4 DEFINITIONS

Applicant: A person or organisation applying for approval to use Council banner poles.

Council: Ballina Shire Council

Not-for-profit Certificate: Certification issued by the Australian Taxation Office that a group is a not-for-profit organisation.

Special event: A function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors
- c) Community members
- d) Council-owned businesses
- e) Applicants.

6 RELATED DOCUMENTATION

As a minimum, this policy should be read in conjunction with the [banner pole application form](#).

7 REVIEW

The Banner Poles policy will be reviewed at least every four years.

POLICY NAME: COMMERCIAL ACTIVITIES ON PUBLIC LAND

POLICY REF: C10

MEETING ADOPTED:

POLICY HISTORY: 240414/4; 260913/3



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1 OBJECTIVE

The objectives of this policy are:

- a) to ensure that there remains an appropriate balance between passive and active recreation on [public land](#) for residents and visitors; and
- b) to clarify what commercial activities may be carried out on public land, and to regulate and manage those activities.

2 POLICY

2.1 Activities Requiring a [Commercial Activities Licence](#)

A Commercial Activities Licence is required if it is intended to:

- a) Carry out or be involved in commercial and/or business activities on public land
- b) Carry out activities on public land that are not limited to activities taking place wholly on public land but also include activities that involve crossing the public land or transferring people or items on, off or over the public land. This includes the embarking or disembarking of people/items from or to water-based activities adjoining the public land. Council requires licensing of any activity or part of an activity involving public land.

2.2 Activities Not Requiring a Commercial Activities Licence or Approval

The following activities can be carried out on public land without obtaining a [licence](#) or approval:

- a) Emergency services performed by recognised emergency service organisations
- b) [Passive recreational activities](#)
- c) Informal [social gatherings](#)
- d) Spreading of ashes
- e) Volunteer rescue organisations – training days.

2.3 Activities Not Requiring a Commercial Activities Licence but Requiring Other Approvals

Approval is required to carry out other commercial and non-commercial activities on public land, and the approval process is covered by other Council policies. Activities that, if carried out on public land, require approval under other policies of Council:

- a) Filming – [Filming on Public Land policy](#)
- b) Markets – [Markets on Public Land policy](#)
- c) Special events – [Events on Public Land policy](#)
- d) Weddings – [Weddings on Public Land policy](#).

Applicants need to check Council's policies to ensure that the correct application for an activity is submitted.

2.4 Commercial Activities that will Not be Issued with an Approval to Operate on Some Public Land

Mobile vendors, including food and non-food items, are not permitted to operate on beaches or public reserves in Ballina Shire. This does not include the operation of such vendors (with approval) on public roads.

2.5 Number and Type of Commercial Activities Licences to be Issued

The number of licences to be issued annually for commercial activities and the type of activities are detailed in the following table:

Activity	Number of Licences	Student/Teacher Ratio	Maximum Numbers	Number of Classes Per Day
Bike Hire	Not limited	Not applicable	Capacity of business location for holding bikes	Not limited
Commercial Boat Use of Public Wharves and Pontoons	Not limited	Capacity of boat	Capacity of boat	Not limited
Commercial Fishermen	As per DPI Licence	Not applicable	As per DPI Licence	Not applicable
Dog Training Schools	Not limited	1 instructor per 10 dogs	10 dog clients	8.30 am – 5.00 pm during daylight hours
Ecotourism Tours	Not limited	1 operator per 30 clients	30 clients	Not limited
Elite Surf Coaching	6	1 instructor per 7 clients	7 clients	Each school, 2 sessions/day
Fishing Tours	Not limited	4 clients per tour operator	4 clients	Not limited
Fitness Training Groups	Not limited	1 instructor per 20 clients	20 clients	2 sessions/day/ operator
Guided Bike Tours	Not limited	1 operator per 9 clients	10 bikes at any time	2 sessions/day/ operator
Hang Gliding and Paragliding	1 club or 4 operators	1 instructor per 1 hang gliding client 1 instructor per 2 paragliding clients	8 hang gliders 4 paragliders	As safety conditions prevail
Helicopter Rides	Not limited	Capacity of helicopter	1 helicopter at any time using a reserve	8.30 am – 5.00 pm during daylight hours

Activity	Number of Licences	Student/Teacher Ratio	Maximum Numbers	Number of Classes Per Day
Horse Riding Guided Tours Seven Mile Beach	2	1 instructor per 4 clients	10 horses	2 sessions/day 1 operator/day on alternate days Week days only, no public holidays
Horse Riding Guided Tours South Ballina Beach	This commercial activity is approved by Crown Lands. Ballina Shire Council requires the licensing of the operation for its use of the public road network to access the beach. Council places no operational conditions on this activity.			
Hot Air Ballooning	Not limited	Capacity of basket	1 hot air balloon at any time using a reserve	Not limited
Kayak and Canoe Tours	Not limited	1 instructor per 4 clients – high risk 1 instructor per 12 clients – low risk	20 kayaks	Not limited
Kite Surfing Schools	2	6 clients with 1 instructor	2 kites	Not limited
Personal Fitness Trainers	Not limited	1 instructor per 2 clients	2 clients	Not limited
Pony Rides for Private Parties	Not limited	1 instructor per 1 client	4 ponies at any time	8.30 am – 5.00 pm during daylight hours
Sailing Schools	2	Capacity of boat	8 small boats – Shaws Bay 12 small boats – Richmond River	8.30 am – 5.30 pm during daylight hours
Sea Plane Rides	1	Capacity of plane	Capacity of plane	8.30 am – 5.00 pm daily
Sky Diving	Not limited	8 parachutes per jump	8 per jump	Daylight operation
Stand-up Paddle Boarding	3	1 instructor per 7 clients	14 clients – Richmond River 7 clients – Seven Mile Beach north of Lake Ainsworth 3 clients – Lake Ainsworth, Shaws Bay, Prospect Lake	Each school, 2 sessions/day

Activity	Number of Licences	Student/Teacher Ratio	Maximum Numbers	Number of Classes Per Day
Surf Schools	5	1 instructor per 8 clients	20 clients	Each surf school, 2 sessions/day
Wind Surfing Schools	Not limited	2 clients with 1 instructor	3 wind surfers	Not limited
Other Activities	To be decided on the merit of each application and with reference to other commercial activities already in operation and by determination of Council through a review of this policy.			

2.6 Applications for Commercial Activities Licences

- a) All applications shall be submitted in writing on the Council-approved [Commercial Activities on Public Land Licence Application](#) form, setting out the proposal in detail and accompanied by the appropriate application fee.
- b) Any application for a licence that fails to meet the requirements outlined in the [Application Guidelines](#) shall be rejected, with reasons given, and returned to the applicant by Council.
- c) All applications for licences shall be assessed and determined by the General Manager of Council or by his or her delegate, in consultation, where necessary, with representatives from, but not limited to, Crown Lands, NSW Maritime and the Cape Byron Marine Park.
- d) All applications for licences will be assessed and determined within a three month period from date of receipt.

2.7 Commercial Activities Licences – Operating Requirements

Operating requirements for the listed commercial activities are available in the *Application Guidelines*, which accompany the *Commercial Activities on Public Land Licence Application* form.

2.8 Renewal of Commercial Activities Licences

- a) Any renewal of an expired licence with an existing licensee will depend on an assessment of the following:
 - i) The licensee has demonstrated compliance with the licence conditions
 - ii) The licensee has shown a satisfactory standard of performance in all areas.
- b) In respect to the renewal of an expired licence with an existing licensee, Council reserves the right to not renew any licence, to not offer the licence, and to call tenders or expressions of interest for the renewal of a licence. This decision will be made by the elected Council.
- c) If a licence becomes vacant, Council reserves the right to determine how it wishes to allocate that licence. Council's preference is to call tenders or expressions of interest when a licence becomes vacant, to allow all interested parties an opportunity to obtain that licence. A renewal of a licence will typically be issued for a period of one year, albeit that Council may issue licences for a longer period

where Council is of the opinion that the investment in the licence by the operator justifies a long-term licence. Longer term licences will normally be issued for a maximum period of three years, with these licences requiring Crown approval. Any decision to offer a licence for a period of more than one year will be determined by the elected Council.

2.9 Matters to be Considered in Assessing Commercial Activities Licence Applications

Council will assess the information provided in applications for licences based on the following selection criteria:

- a) Demonstrated successful experience in the activity to a high professional standard
- b) Demonstrated history and experience of environmentally acceptable operations
- c) Demonstrated appropriate level of knowledge and understanding of local conditions, natural and cultural history, ecological processes and constraints
- d) Demonstrated experience in, or capacity to meet licence conditions including the keeping of records and prompt payment of fees
- e) Demonstrated ability to comply with appropriate safety requirements and duty of care responsibilities
- f) Demonstrated capability to promote interpretive and educational information that ensures clients are receiving instruction in minimal impact techniques, environmental protection and ethics of appropriate behaviour
- g) Demonstrated compatibility with a Crown Reserve purpose or any plans of management
- h) Economic and tourism development benefits to the Ballina Shire through associated activities such as marketing, use of shire facilities, etc.

2.10 General Provisions for Commercial Activities Licences

The general provisions listed in this clause will apply to all licences:

- a) Licences will be issued for a maximum period of twelve months; however this period may be extended to a maximum period of three years based on a resolution of the elected Council
- b) Licences are not tangible assets and cannot be transferred to a new operator
- c) Licence conditions will use industry standards, where applicable
- d) Should a licence holder fail to operate a licence for a continuous period of four months, then the licence will lapse, unless Council has provided advice to the contrary
- e) Licensees are entitled to hold only one licence within each licensed activity.

2.11 Additional Commercial Activities Licences

- a) The elected Council will determine any amendment to the number of licences issued for each activity through a review of this policy.
- b) While most licence applications fall into the activities listed in this policy, it is recognised that other activities may be proposed. These applications will be considered on their merits and with reference to other commercial activities already in operation and the general requirements set out in this policy. The issuing of a commercial licence for an activity not listed in this policy will be subject to approval by a resolution of Council.

2.12 Breaches and Unlicensed Activities

Where there is any breach of any licence conditions, including unlicensed activities, Council will take all necessary action to remedy the breach. This includes, but is not limited to, the issuing of written and verbal warnings, undertaking legal action and, where appropriate, the removal of the activities from the public land by an employee of the Council or NSW Police.

2.13 Revoking of Commercial Activities Licences

- a) Council reserves the right to revoke any licensed activities for management reasons including, but not limited to, environmental protection, public safety and changes in policy or legislation.
- b) Licences may also be terminated in the following circumstances:
 - i) If any fees payable, or any part thereof, are in arrears for 30 days, whether formally demanded or not
 - ii) If proof of current public liability insurance cover is not provided prior to commencement of, or during a licence period
 - iii) If the licensee breaches any conditions of this policy or the licence
 - iv) If the licensee has committed an act of bankruptcy
 - v) If the licensee commits an unlawful act or breaches the requirements of any other relevant authority.
- c) If the licence is to be terminated due to the circumstances set out in this clause, the Council may terminate the licence by:
 - i) notifying the licensee to that effect; or
 - ii) restricting the licensee from operating the activity on the public land, by force if necessary; or doing both.
- d) If a breach of a condition in the licence is witnessed and recorded by a Council officer or reported to Council and investigated, a written warning notice may be issued to the operator. Council reserves the right to issue verbal warnings for minor deviations from the licence.

- e) A licensee has a right to provide a written response to a warning notice within 28 days. The General Manager has the authority to determine whether or not the warning notice should be waived, based on the response.
- f) Where a licensee holds a one year licence, the issuing of two written warning notices in that period will result in termination of the licence.
- g) If a licensee receives three written warning notices within a three year period, Council will terminate the licence.

2.14 Nature and Determination of Fees and Charges

- a) Council will determine the fees and charges applicable for commercial activities, as per this policy, as part of its annual Operational Plan and budget deliberations.
- b) This determination will include, at a minimum, the following fees:
 - i) Commercial Activities Licence – application fees
 - ii) Commercial Activities Licence – licence fee based on the level of impact assigned to the activity:

Category
Very Low impact
Low impact
Medium impact
High impact
Tender

- c) The licence application fee must be paid when an application is submitted to Council. This application fee will not be refunded should the application be refused.
- d) The licence fee must be paid annually, in advance.
- e) Fees will be determined taking into account, and not limited to, the following:
 - i) Nature of the activity
 - ii) Scale of its operation
 - iii) Use of and impact on the public land
 - iv) Impact on the community, both beneficial and detrimental.

The following table details the level of impact assigned to each of the approved commercial activities. This will determine the level of fees that will be paid.

Impact Category	Activity
Very Low impact	Ecotourism Tours
	Personal Fitness Trainer
	Horse Riding <u>access to</u> South Ballina Beach
Low impact	Hot Air Ballooning
	Dog Training Classes
	Kite Surfing
	Kayaking and Canoeing
	Wind Surfing
	4WD Fishing Tours
	Guided Bike Tours
	Sailing Schools
	Pony Rides for Private Parties
	Medium impact
Sky Diving	
Hang Gliding and Paragliding	
Group Fitness Training	
Commercial Fishermen	
Beach Horse Riding	
Commercial Boat Use of Public Wharves and Pontoons	
High impact	Sea Plane Rides
	Helicopter Rides

- f) No pro-rata refunds will be provided where a licence is cancelled, terminated or handed in during the year for which the licence fee is applicable.
- g) Where a tender or expression of interest process is conducted due to a vacant licence, Council will ensure that such a process will result in the new licensee paying the same fee as other licence holders for the same commercial activity.
- h) For Surf Schools, Elite Surf Coaching and Stand-up Paddle Boarding, which are typically offered longer term licences (ie three years), Council will confirm the value of these licences towards the term of the licence. Options for determination will include, but not be limited to, indexing at or above CPI, independent valuation, price based on turnover, or calling fresh tenders/expressions of interest to assess the value of the licences.

3 DEFINITIONS

Application Guidelines: The conditions required to be met to both hold and operate a Commercial Activities Licence. This is a separate document maintained by Council.

Commercial Activities Licence: The Council approval for the operation of a commercial activity on public land in Ballina Shire.

Council: Ballina Shire Council

Educationally-based community activities: Organised activities for the purpose of providing and distributing educational information. Not-for-profit.

Licence: A Commercial Activities Licence.

Mobile food vendors: Vehicles that sell food, ice cream, coffee, etc.

Passive recreational activities: Low-key and low impact recreational/leisure activities undertaken by people on an informal basis.

Political functions: Organised gatherings of people for the purpose of expressing political beliefs.

Religious functions: Organised gatherings of people for the purpose of expressing religious beliefs.

Public land: Land under the ownership or care and control of Council.

Social gatherings: Small gatherings of people, meeting on an informal and social basis.

Sporting events: Organised on a not-for-profit and community basis, where prizes are distributed on an amateur basis.

4 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors
- c) Community members
- d) Council-owned businesses
- e) Applicants.

5 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) *Local Government Act 1993*

- b) *Crown Lands Act 1989 and Crown Lands Regulation 2000*
- c) *Roads Act 1996*
- d) *National Parks and Wildlife Act 1974*
- e) *National Parks (Fauna Protection) Regulation 1994*
- f) *Threatened Species and Conservation Act 1985*
- g) [Ballina Coastal Reserve Plan of Management](#)
- h) [Ballina Local Environmental Plan](#)
- i) [Filming on Public Land policy](#)
- j) [Markets on Public Land policy](#)
- k) [Events on Public Land policy](#)
- l) [Weddings on Public Land policy.](#)

6 REVIEW

The Commercial Activities on Public Land policy will be reviewed at least every four years.

POLICY NAME: COMMUNITY EVENT SIGNAGE
POLICY REF: C17
MEETING ADOPTED:
POLICY HISTORY: [Click here to enter text](#)



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1 OBJECTIVE

The objectives of this policy are:

- a) to provide a documented process explaining how community event organisers may obtain Council approval to install temporary, short-term community event signage which relates to [special events](#) taking place within Ballina Shire;
- b) to ensure there is equitable access to event signage for community event organisers;

- c) to ensure that event organisers are aware of Council's requirements in order to assist and encourage community event signage; and
- d) to ensure organisers receive approvals in a timely and orderly manner.

2 POLICY

2.1 General

- a) Council has identified a number of sites throughout the shire as being suitable for the promotion of [community events](#), where signage infrastructure has been provided. The display of a sign at these locations shall be subject to obtaining Council approval in accordance with Council's [Community Event Signage Guidelines](#). The guidelines provide comprehensive information on the procedures and protocols to be followed in respect to community event signage.
- b) It is Council policy that the signs must promote an upcoming community event that is being held within Ballina Shire. Community events may be of a cultural, social or recreational nature and must encourage a high level of community participation, with strong benefits to the community.
- c) There is provision for the erection of multiple signs at each location. The locations are shown on maps in the *Use of Public Land Handbook*.

2.2 Eligibility

- a) The eligibility criteria for community events signage under this policy are as follows:
 - i) The applicant must be a not-for-profit incorporated organisation or a commercial organisation promoting a community-based event
 - ii) The applicant is preferably based in Ballina Shire
 - iii) The proposed activity or event will take place in the Ballina Shire
 - iv) The applicant must have lodged an application for approval under Council's [Events on Public Land policy](#) (for events on [public land](#)); or
 - v) The applicant must have lodged a development application for the event (for events on [private land](#))
 - vi) The applicant must comply with Council's risk and insurance requirements
 - vii) If the applicant has received previous support from Council, all acquittals stipulated by Council must be complete
 - viii) The event must encourage a high level of community participation.
- b) Events that are **not eligible** to make an application under this policy are:
 - i) Weekly sporting competitions
 - ii) Garage sales

- iii) Events that are entirely of a commercial nature, with no perceived community benefit, as determined by the General Manager.

2.3 Application Process

- a) Applications must be submitted on the [approved form](#) and can be lodged four weeks (minimum) and four months (maximum) prior to the date of the event. Incomplete applications will not be accepted.
- b) If there is concern over whether an event is a community event, Council will seek confirmation regarding the level of community participation and a breakdown of the perceived benefits to the community.

2.4 Booking Preferences

- a) Booking preferences will be given to the following events, **in order of priority**:
 - i) Community events that are funded via our [Festivals and Events – Council Support policy](#)
 - ii) Council-approved regular markets
 - iii) Community events that have obtained approval under Council’s Events on Public Land policy
 - iv) Other community events organised by not-for-profit incorporated associations (eg school fetes, cultural or sporting events)
 - v) [Commercial events](#) (that have a community benefit).
- b) Allocation of sites is on a “first come, first served” basis, however where there is a clash of bookings’ preference that cannot be resolved, priority will be given to signs relating to events held in the locality of the signage site and/or community events that have a higher level of community participation.

2.5 Conditions of Use

- a) Signs relating to an event may be erected up to six weeks prior to the event, if selected sites are available.
- b) Signs relating to events must be removed within three days of the conclusion of the event.
- c) Community event signs are to be erected by the applicant.
- d) Signs must be secured to designated sites (locations are detailed in the *Community Event Signage Guidelines* and the *Use of Public Land Handbook*) to the satisfaction of Council.

Applications for longer periods of advertising can be determined by the General Manager.

2.6 Signage Design

- a) Professional designers should be engaged where possible. Signage should be of a professional standard and in accordance with the *Community Event Signage Guidelines*.
- b) To maximise the impact of signage design, the following points are to be considered:
 - i) Inclusion of dates and venue information in large, bold writing
 - ii) Graphics that are simple and bold
 - iii) Use of text only where it forms part of the established image of the event or logo
 - iv) Sponsorship logos must only take up 10% of the total sign area.
- c) Council reserves the right to refuse permission to display signage on any grounds, particularly any signage that, in the opinion of Council:
 - i) Is poor in appearance
 - ii) Projects an offensive message
 - iii) Displays an offensive image
 - iv) Contains offensive language
 - v) Promotes a commercial activity or organisation (outside the scope of the policy)
 - vi) Incites hatred or aggression in any form
 - vii) Is unlawful under any local, state or federal law
 - viii) Is considered as promotion of a political or racial nature.
- d) Design templates and/or existing signs are to be reviewed and approved by Council prior to printing. Approval will be issued within five working days of receipt.

2.7 Locations

The approved locations are defined in Council's *Community Event Signage Guidelines* and the *Use of Public Land Handbook*.

2.8 Fees and Charges

Please refer to Council's website for [annual fees and charges](#).

2.9 Non-Compliance

- a) Failure to remove signage approved under this policy within three days of the conclusion of the event will result in the sign being removed and impounded by an [Authorised Officer](#) of Ballina Shire Council.

- b) An Authorised Officer may remove and impound any temporary community sign that is placed on any other public place, road and road reserve, or land contrary to the stated requirements, and may issue a penalty notice in accordance with the provisions of the relevant regulations, including the *Environmental Planning and Assessment Act 1979*.

3 BACKGROUND

Certain signage is exempt from the requirements to obtain development consent. Details of signage that is exempt development are contained within the following legislation:

- a) [State Environmental Planning Policy No 64 \(Advertising and Signage\) – clause 33](#)
- b) [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 – Advertising and Signage Exempt Development Code](#)
- c) [Ballina Local Environmental Plan 2012 – Schedule 2](#).

Council receives numerous requests throughout the year for the installation of promotional and directional signage on public land for community events. Often due to lack of visibility, these sites are restrictive and unsuitable locations for the promotion of events.

As Council supports and encourages festivals and events within the shire, notably through our Festivals and Events – Council Support policy, the promotion of these events is considered to be an important issue that must be addressed.

This policy has been developed to provide for the approval and installation of community event signage within Ballina Shire in pre-determined locations. The intent of this policy is to ensure that signs are visually attractive and provided in a uniform manner so that they are easily identified, located and understood by motorists.

It is neither desirable nor practical to install information signs for every event or activity that occurs in the shire. As such, this policy seeks to set guidelines for the situations where signs are considered warranted on the basis of providing directional signage and promotion for community events.

4 DEFINITIONS

Authorised Officer: An officer of Ballina Shire Council authorised in the administration and/or enforcement of this policy.

Ballina Local Environmental Plan 1987: The statutory instrument that regulates the use of land in parts of Ballina Shire.

Ballina Local Environmental Plan 2012: The statutory instrument that regulates the use of land in parts of Ballina Shire.

Ballina Shire Development Control Plan 2012: The development control policy applying to various forms of development in Ballina Shire, including signage, as adopted by Council in December 2012.

State Environmental Planning Policy No 64 – Advertising and Signage: The statutory instrument that regulates various forms of advertising and signage in New South Wales.

Commercial event:	An event run by an entity or organisation or business for a profit or private financial gain.
Community event:	An event run by an entity or organisation that is a not-for-profit incorporated association and where the event proceeds are returned directly to the community.
Council	Ballina Shire Council
Event:	A function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade.
Private land:	Any land that is not public land.
Public land:	Land under the ownership or care and control of Council.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors
- c) Community members
- d) Not-for-profit community groups
- e) Commercial organisations
- f) Event organisers
- g) Market organisers.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Ballina Local Environmental Plan 1987](#)
- b) [Ballina Local Environmental Plan 2012](#)
- c) [State Environmental Planning Policy No 64 \(Advertising and Signage\)](#)
- d) [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 – Advertising and Signage Exempt Development Code](#)
- e) [Ballina Shire Development Control Plan 2012](#)
- f) [Events on Public Land policy](#)
- g) [Event Guidelines](#)

- h) [Festivals and Events – Council Support policy](#)
- i) [Community Event Signage Guidelines.](#)

7 REVIEW

The Community Event Signage policy will be reviewed at least every four years.

POLICY NAME: **EVENTS ON PUBLIC LAND**
POLICY REF: **E05**
MEETING ADOPTED:
POLICY HISTORY: *(previously Special Events policy)*



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1 OBJECTIVE

The objectives of this policy are:

- a) to provide a documented process describing how event organisers may obtain approval to hold an [event](#) on [public land](#) in Ballina Shire including parks, open spaces or streets;
- b) to ensure that event organisers are aware of Council’s requirements in order to assist and encourage the efficient organisation of events; and
- c) to ensure that event organisers receive requisite approvals in a timely and orderly manner.

2 POLICY

- a) Events held on public land in Ballina Shire will require lodgement of a completed [Application for Events on Public Land](#) form. Applicants must refer to the [Event Guidelines](#) when completing an application.
- b) Event applications may be subject to fees and charges and/or ground bonds in accordance with [Council's adopted Fees and Charges](#).
- c) Applications will be assessed with approval conditions issued in accordance with the [Event Guidelines](#).

2.1 Assessment

- a) When assessing applications Council staff will consider a range of assessment criteria including, but not limited to:
 - i) *Environmental impacts* – potential damage to local flora and fauna, and impact on Council infrastructure
 - ii) *Social impacts* – impact on residential amenity, conflicts with other user groups and organisations, availability of land
 - iii) *Economic impacts* – likely economic benefits and detriments to the locality and the shire
 - iv) *Risk assessment* – the event organiser must provide Council with a Risk Management Plan. Management of risk is a critical factor in the professional management of any event. A Bush Fire Hazard Assessment should be undertaken, if relevant to the site. Council has guidelines on risk management for events on public land.
- b) When matters such as these cannot be resolved operationally, the event assessment may be reported to Council for determination.

2.2 [Long-Term Event Approvals](#)

- a) *Existing events* in Ballina Shire requiring long-term approval (for a maximum of three years) will be processed operationally by way of the Events on Public Land policy each year.
- b) *New events* to Ballina Shire requiring long-term approval (for a maximum of three years) involve advice to Councillors and will be processed operationally by way of the Events on Public Land policy each year.

2.3 Provisions for Financial Support

2.3.1 *Festivals and Events Support Program*

Council's Festivals and Events Support Program provides funding to support festivals and events held within Ballina Shire. The annual allocation is based on the financial year, and not-for-profit community-based organisations planning festivals are encouraged to apply. Applications typically open in December each year, with funding announced in March. (Refer to Council's [Festivals and Events – Council Support policy](#).)

2.3.2 **Community Donations Program**

Council provides an annual allocation of funding through the Community Donations Program to assist community groups in the provision of services that benefit the community. Applications typically open in April each year, with funding announced early in the next financial year. (Refer to Council's [Donations – Financial Assistance policy](#).)

3 BACKGROUND

Events are conducted regularly in Ballina Shire, from street parades and marches, fun runs, cycle races, music festivals, cultural celebrations, sporting events, open-air theatres, concerts, markets and the like.

Ballina Shire Council values the importance of local events that showcase the rich cultural diversity and history of our local Ballina Shire community and which deliver economic, social and environmental benefits. However, Council also recognises that events can have significant environmental and public safety implications. This policy aims to promote good practice by event organisers so that the benefits to the community can be maximised and negative social impacts minimised or eliminated.

Event organisers are expected to comply with a number of requirements in accordance with Council's regulatory framework.

This policy does not cover events held on [private land](#). These will typically be dealt with through a development application.

4 DEFINITIONS

Council:	Ballina Shire Council
Event:	A function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade.
Event Guidelines:	A document designed to assist event organisers comply with the regulations and procedures associated with staging events on public land in Ballina Shire.
Long-term:	Greater than one year and a maximum of three years.
Private land:	Any land that is not public land.
Public land:	Land under the ownership or care and control of Council.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors

- c) Community members
- d) Not-for-profit community groups
- e) Commercial organisations
- f) Event organisers
- g) Sporting organisations.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [*Application for Events on Public Land*](#)
- b) [*Event Guidelines*](#)
- c) [*Donations – Financial Assistance policy*](#)
- d) [*Festivals and Events – Council Support policy*](#)
- e) [*Markets on Public Land policy.*](#)

7 REVIEW

The Events on Public Land policy will be reviewed at least every four years.

POLICY NAME: FILMING ON PUBLIC LAND
POLICY REF: F04
MEETING ADOPTED:
POLICY HISTORY: 230910/30; 230605/042



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1 OBJECTIVE

The objective of this policy is to facilitate commercial filming on public land as required in the [Local Government Filming Protocol 2009](#). Further, to promote balance between community interests, environmental, cultural and heritage protection and economic development.

2 POLICY

This policy provides guidelines for filming within Ballina Shire. Approval for commercial filming on public land is required for:

- a) Feature films
- b) Telemovies and mini series
- c) Television series

- d) Documentaries
- e) Corporate and music videos
- f) Television commercials
- g) Digital content for mobile and other portable devices
- h) Digital effects and animation and post-production.

Approval is not required for still photography, unless the photography involves additional activity such as blocking streets.

2.1 Presumption of Approval

As required in the *Local Government Filming Protocol 2009*, councils are expected to grant filming approvals unless there are exceptional circumstances or legislation requires the council to refuse to grant the approval. Filming is also classified as exempt development under [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) and does not require development consent under the *Environmental Planning and Assessment Act 1979*.

2.2 Filming on [Public Land](#)

- a) Prior to commencing any filming, an approval is required for filming on public land in Ballina Shire. This includes areas such as public reserves, footpaths, roads, beaches and parks. Filmmakers must, prior to applying for filming approval, refer to the *Local Government Filming Protocol 2009* for guidance.
- b) Filming applications will be assessed by a Council officer, with approval conditions issued. Depending on the nature and location of the proposed filming, additional environmental assessments and approvals may be required.
- c) It is understood that lead times for notice of filming activities need to be flexible as many productions change schedules and locations at short notice. Council will endeavour to accommodate all reasonable requests. Applicants are encouraged to provide as much notice to Council as possible.

2.3 Filming on [Private Land](#)

Approval from Council is not required for filming which takes place entirely on private land. Filmmakers operating on private land are required to comply with the standards contained in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

2.4 Fees and Charges

- a) The requirements for each filming situation are different and require different levels of administrative work by Council. A scale of application fees for filming on public land has been developed and is available in [Council's adopted Fees and Charges](#).
- b) Activities associated with filming may also require approval and such activities may also attract an application fee.

3 BACKGROUND

The creative media sector is an important area of innovation, a means of improving productivity and increasing business investment in New South Wales. The NSW Government is committed to ensuring that the environment in New South Wales encourages the screen industry.

In order to strengthen the support for location filming and with an aim to remove unnecessary red tape affecting the New South Wales film and television industries, the Government developed the *Local Government Filming Protocol 2009* under the *Local Government Act 1993*.

The filming protocol was developed in consultation with local councils, government agencies and the film industry to ensure that New South Wales remains “film friendly” while maintaining a proper balance between community and economic concerns.

Under this protocol, councils must ensure that requests for film productions are facilitated, unless there are exceptional circumstances or legislation requires the local council to refuse to grant the approval. Local councils must comply with the Local Government Filming Protocol when determining applications or setting fees. Fees and charges related to location filming activity are, at a maximum, to be cost reflective.

This binding protocol spells out the dynamic relationship between the screen industry in New South Wales and local government. It seeks to generate a shared intelligence between filmmakers and councils about the issues associated with the needs of each party to support the screen industry and the needs of local communities.

It is important that film production companies understand Council has the care, control and management of these areas. This means Council’s duty is to ensure that the amenity of these areas is maintained. It is also necessary to maintain public safety and free movement while film shoots are taking place.

This policy has been designed to assist film production companies achieve their film vision, and at the same time ensure minimum impact on the day-to-day activities of the Ballina Shire community.

4 DEFINITIONS

Council:	Ballina Shire Council
Private land:	Any land that is not public land
Public land:	Land under the ownership or care and control of Council

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Not-for-profit community groups
- c) Commercial organisations

- d) Film industry
- e) Consultants/contractors.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) *Local Government Act 1993*
- b) *Crown Lands Act 1989*
- c) *Roads Act 1993*
- d) [*Ballina Coastal Reserve Plan of Management*](#)
- e) [*Local Government Filming Protocol 2009*](#)
- f) [*State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008*](#)
- g) [*Council's adopted schedule of fees and charges.*](#)

7 REVIEW

The Filming on Public Land policy will be reviewed at least every four years.

POLICY NAME: FESTIVALS AND EVENTS – COUNCIL SUPPORT

POLICY REF: F05

MEETING ADOPTED:

POLICY HISTORY: 161210/1; 260810/21



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1 OBJECTIVE

Ballina Shire Council values the importance of local festivals that aim to showcase the rich cultural diversity and history of our local community and that deliver economic, social and environmental benefits. The objective of this policy is to enable Council to support festivals and events put forward by not-for-profit community-based organisations that deliver these aims. In doing so, this policy also seeks:

- a) to ensure that an open and transparent decision making process is in place for requests for support from Council;

- b) to provide an accessible and equitable process for not-for-profit organisations seeking event support from Council;
- c) to identify and support the shire's festivals and events;
- d) to create partnerships with community groups to enhance the attractiveness of Ballina Shire as a destination known for festivals and events;
- e) to obtain value from Council's investment in festivals and events; and
- f) to provide an avenue for the Council to contribute to expenses associated with critical services, to ensure a safe event for the community.

2 POLICY

2.1 General Principles

- a) Council will provide donations or sponsorship for community-based festivals and events because it considers that this type of support provides far more tangible benefits to the community than Council co-ordinated events.
- b) To support this principle, Council will make provision in its annual Operational Plan to provide donations or sponsorship to selected festivals and events and associated organisations that meet the criteria set out in this policy.
- c) Nothing in this policy restricts Council from providing recurrent donations or sponsorship, subject to the Council receiving an annual application from the organisation. Funding in one year will neither preclude nor guarantee funding in any future year.
- d) All funding is allocated at the discretion of the Council and is subject to annual budgetary considerations. No application is guaranteed funding support or that the full amount requested will be provided.
- e) The Festivals and Events – Council Support policy will not preclude organisations from seeking [sponsorship](#) from Council for festivals and events. Requests for sponsorship will be determined by the General Manager (or delegate) at an operational level, and will be dependent on funds being available within operating budgets and an assessment of the benefits to be derived by Council and the community from the sponsorship.
- f) The Festivals and Events – Council Support policy will not preclude organisations from seeking financial [donations](#) through Council's annual community donations process. Typically, funds allocated under that program will be smaller in nature due to the limited funding available and the numerous requests received.
- g) Council will also continue to support local events which fall outside this policy that require specific traffic management and other services. These types of events include ANZAC Day and NAIDOC Week.
- h) To be eligible for support, the total cost of the [festival or event](#) must be estimated at over \$20,000, with a minimum of \$15,000 allocated towards cash expenses, excluding Council's contribution.

- i) Funding from Council will typically be provided for the following items:
 - i) Waste management
 - ii) Traffic management
 - iii) Equipment hire
 - iv) Promotion and marketing
 - v) Insurance
 - vi) Venue hire
 - vii) Sound equipment and technician
 - viii) Fees for specialised services, eg marketing consultant for the specific festival or event.
- j) Funding from Council will **not** be provided for the following items:
 - i) Capital expenditure
 - ii) Contribution to charities
 - iii) Ongoing operational/administrative costs not directly related to the festival or event
 - iv) Retrospective projects
 - v) Wages for community event organisers.

2.2 Process

- a) The Council will consider allocating an amount in the annual Operational Plan for the purpose of providing support for community festivals and events.
- b) Council will invite submissions from the community as part of the annual [Operational Plan](#) process. Submissions must be made on Council's application form.
- c) A Councillor workshop will be held to provide an opportunity for all Councillors to review the applications for funding. Discussions from this workshop will be reported to an Ordinary meeting of Council as part of the evaluation process for applications.
- d) The workshop will consider all submissions and recommend to the next Ordinary meeting of Council a distribution of the available funds. It is not incumbent upon the workshop or Council to contribute any, or all, of the available funds.
- e) Following the Council's determination, successful and unsuccessful applicants will be notified and arrangements will be made to provide the financial support.
- f) Council will require certification and acquittal detailing the manner in which funds have been expended, and a brief description of outcomes.

- g) Applications received from organisations following completion of the annual Operational Plan process will be informed of Council's policy and invited to apply in the following year, subject to clause 2.2(h) of this policy.
- h) Only where matters are considered by the General Manager and/or Mayor, or at least two Councillors, to be exceptional circumstances, will such requests be referred to the Council for consideration and determination.

2.3 Eligibility

2.3.1 The Applicant

- a) The applicant must be a not-for-profit organisation.
- b) The applicant must be an incorporated organisation or be sponsored by an incorporated organisation.
- c) The applicant should preferably be based in Ballina Shire and the proposed activity must take place within Ballina Shire.
- d) If the applicant has received previous support from Council, all acquittals required by Council must have been completed.
- e) The applicant must have a demonstrated capacity for festival and event management.
- f) The applicant must demonstrate the need for support from Council and the mid-to long-term sustainability of the festival or event.
- g) The application must be supported by a financial or business plan.

2.3.2 Governance

The applicant must have an effective constitution or governing documents, structure and volunteer involvement.

2.3.3 Contribution to the Community Strategic Plan and Delivery Program

The proposed festival or event should contribute to the delivery of one or more of Council's strategic priorities as identified in the [Ballina Shire Community Strategic Plan](#):

a) Community Development

- i) The festival or event should provide a public benefit in the fields of art and culture, sport and recreation, general health, well-being and education, learning and knowledge.
- ii) The festival or event should meet an identified need and/or develop community strengths.
- iii) The festival or event should be innovative and relevant for the target audience.
- iv) The festival or event should have documented support from groups that would benefit from the festival/event.

- v) The festival or event should provide social benefits to the broader community.

b) Economic Value and Environmental Awareness

- i) Evidence that the festival or event will make a positive contribution to the economy.
- ii) Anticipated community participation rates are significant and represent value for money.
- iii) Acknowledgement of Council support will be comprehensive.
- iv) The festival or event is viable, and support funds are being sought from other sources.
- v) The festival or event will be managed to limit adverse environmental impacts.

3 BACKGROUND

Council's preference is to obtain maximum leverage from its support of community festivals and events, and believes this can best be achieved when support is provided through a financial contribution. This type of support empowers community groups and, in turn, provides a far higher level of community connection with the festival or event. At the same time, Council's investment maximises the resources available by supporting the volunteers connected with the community group responsible for co-ordinating the festival or event.

4 DEFINITIONS

Council: Ballina Shire Council

Donation: Cash contribution that **does not** require any reciprocal benefits.

Festival or event: A function or event open to the public or a section of the public and includes a ceremony, concert, cultural celebration, dance, exhibition, fair, festival, fete, gathering, market, open air theatre, parade, sporting event or street parade. Usually and ordinarily staged by a local community group, and centres on and celebrates some unique aspect of the local community.

Sponsorship: Cash donation that **does** require or imply reciprocal benefits.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors
- c) Not-for-profit community groups.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Ballina Shire Council Operational Plan and Budget](#)
- b) [Donations – Financial Assistance policy](#)
- c) [Events on Public Land policy](#).

7 REVIEW

The Festivals and Events – Council Support policy will be reviewed at least every four years.

POLICY NAME: COMMERCIAL USE OF FOOTPATHS
POLICY REF: F07
MEETING ADOPTED:
POLICY HISTORY: 260810/24



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1 OBJECTIVE

This policy applies to [street vending](#) and [footway restaurants](#) (also referred to as footpath [alfresco dining](#)) undertaken on [public roads](#) within the meaning of the *Local Government Act 1993* and the *Roads Act 1993*.

The broad intent of the policy is to outline the:

- a) process commercial operators can follow in applying for an approval to use part of the adjoining footpath for street vending or a footway restaurant;
- b) design criteria for assessing applications; and
- c) standard consent conditions that will be imposed.

The aim of the policy is to:

- a) create vibrant and stimulating commercial centres where the public is encouraged to shop and dine in an outdoor environment and take advantage of the favourable local climate;
- b) enhance and promote the established central business areas of the shire, particularly those of Ballina, Lennox Head, Alstonville and Wardell as focal shopping, business and social places in the shire;
- c) provide clear guidelines for [applicants](#), staff, Council and the community with respect to Council's expectations in relation to street vending and the establishment of footway restaurants;
- d) ensure that pedestrian and traffic safety are not compromised by the activities of street vending and/or footway restaurants;
- e) ensure equitable access for all, including people with disabilities;
- f) promote economic activity by providing opportunities for alfresco dining and for the display of goods and merchandise on footpaths; and
- g) mitigate risks for both Council and approved commercial users of footpaths with respect to the operation of this policy.

2 POLICY

2.1 [Street Vending Consents](#) and [Footway Restaurant Approvals](#)

2.1.1 *Who may apply?*

- a) An [application](#) to use a footpath area for street vending or as a footway restaurant must be made by the registered proprietor of the business occupying the premises from which the footpath activity is intended to be operated or serviced.
- b) A street vending consent or footway restaurant approval will only be granted where the use is consistent with the existing approved use of the premises from which the footpath activity is intended to be operated or serviced.

2.1.2 What area may be approved?

- a) The [approval area](#) will not extend further than the width of the street frontage of the applicant's premises. *Note: Council may consider approving a vending area beyond the applicant's premises with the written consent of both the owner and occupier of the adjoining premises.*
- b) The maximum width of an approval area is dependent on maintaining the following unimpeded pedestrian thoroughfare:

Footpath width	Unimpeded cross-section
Less than 3.9 metres	1.5 metres
3.9 metres	2.0 metres
Greater than 3.9 metres	50% of footpath width

(See *Use of Public Land Handbook* for diagram)

- c) The placement of any temporary structures within an approval area must allow sufficient clearance for pedestrians to make normal use of the footpath without unreasonable impact. The placement of structures must not inhibit or obstruct clear sight-lines for vehicles and pedestrians at intersections, vehicular kerb crossings and pedestrian crossings.
- d) The approval area for a footway restaurant must be defined by the use of appropriate barriers. The feet of the barriers must:
- i) not be raised more than 5 mm above surface level;
 - ii) have bevelled edges;
 - iii) not project into the unimpeded footpath area; and
 - iv) contrast visually with the footpath surface.
- e) Displays of goods are to extend no further than one (1) metre forward of the property boundary.
- f) Any landscaping, lighting, structures and/or furniture within an approval area are to be designed and configured to positively contribute to the overall streetscape.
- g) No permanent structures are permitted within an approval area, and all temporary structures and/or furniture must remain wholly within the specified boundaries of the approval area.
- h) Items placed in the approval area must be stable and suitably designed to prevent damage to the footpath, withstand weather conditions and maintain an attractive appearance.
- i) Any clothing racks and/or display tables must have lockable wheels to ensure racks and display tables can be secured on the footpath.

- j) No advertising signs, including free-standing A-frames, are to be placed within the approval area, other than incidental advertising as specified in clauses 2.1.3(b) and 2.1.6(k).

2.1.3 Type of commercial uses

- a) A street vending consent and footway restaurant approval under this policy are restricted to [small-scale commercial use of footpaths](#) as defined.
- b) Advertising on footpaths is not permitted, except for incidental advertising such as branded screens/barriers and/or umbrellas associated with footway restaurants.

2.1.4 Car parking

- a) There are no additional car parking requirements for the commercial use of footpaths where such an activity is undertaken in accordance with the requirements of this policy.
- b) Any car parking requirements associated with the existing approved use of the associated business premises must be maintained.

2.1.5 Applications

- a) An application under this policy must be submitted on a [Council-approved form](#), together with the prescribed application fee (where applicable).
- b) The application must include accurate scaled and dimensioned plans of the [application area](#), together with details of the proposed placement of landscaping, lighting, temporary structures and/or furniture.
- c) An application for a footway restaurant must include details of the intended operation of the alfresco dining area, including nature of dining, hours of operation, seating capacity, type of service, etc.
- d) An application for a footway restaurant must be accompanied by detailed evidence that the existing kitchen, washing and trade waste facilities are suitable to cater for the proposed additional capacity associated with the application area.
- e) The use of a footpath area for a purpose authorised under this policy must not commence until a valid street vending or footway restaurant approval has been issued and relevant conditions have been complied with.
- f) An [application for the use of a footpath area](#) as a footway restaurant must specify whether the applicant will be applying for a licence for the service and consumption of alcohol within the approval area. *Please note: If the approval area is within a designated Alcohol-Free Zone, a special exemption will need to be obtained.*

2.1.6 Standard conditions

- a) This approval does not become operational until:
 - i) the prescribed annual [footpath occupation fee](#) has been paid; and

- ii) the applicant provides evidence of a public liability policy, with coverage consistent with Council's insurance procedures, in respect of the subject business that includes all activities associated with the approval area.
- b) The requirements in (a) are to be met by the applicant on each anniversary of the approval.
- c) This approval is vested with the registered proprietor of the business occupying the premises from which the footpath activity is to be operated or serviced. Where a business is sold or transferred, this approval may be transferred to the new proprietor when Council is notified of the change in ownership. Failure to notify Council of changes may result in the approval being withdrawn.
- d) The required public liability policy shall be maintained when an approval is being acted upon.
- e) The applicant, in acting upon this approval, indemnifies Council against all claims of public liability relating to use and activities associated with the approval area.
- f) The approval area shall be permanently marked in a manner authorised by Council, at the cost of the applicant.
- g) The endorsed use must be confined at all times to the approval area, and must be operated in accordance with the terms of this approval.
- h) The footpath must be kept clean and tidy at all times. The applicant may be required to periodically steam or pressure-clean the approval area and adjacent footpath, or upon the direction of Council.
- i) The applicant must reinstate any damage caused to public footpaths at his/her own cost. All repair work must be undertaken to the satisfaction of Council.
- j) The [Companion Animals Amendment \(Outdoor Dining Areas\) Bill 2010](#) allows dogs in outdoor dining areas that use temporary infrastructure to delineate the area. Proprietors are advised to familiarise themselves with the relevant Act to ensure compliance with the provisions of this Act.
- k) No advertising is to be displayed on the footpath, with the exception of branded pedestrian screens/barriers and umbrellas associated with footway restaurants.
- l) An approved footway restaurant must not serve or allow the consumption of alcohol, unless it is outside a declared Alcohol-Free Zone and/or a liquor licence has been obtained.
- m) If Council or a service authority requires the use of public land, including an approval area, to undertake works or for a planned event, the applicant is to be given at least seven (7) days written notice. In an emergency, an approval area may need to be cleared immediately. The applicant will be responsible for the movement of all items and any associated costs.
- n) Council has the right to instigate enforcement action or to modify the conditions of a street vending consent or footway restaurant approval, or to suspend or cancel such approval after giving notice to the applicant in writing if:
 - i) there is non-compliance with any part of this policy;

- ii) the consent/approval conditions have not been met or there is non-compliance with an approved plan and there is failure to comply with the directions of an [Authorised Officer](#);
 - iii) the applicant has failed to maintain public liability insurance;
 - iv) the applicant has failed to pay the annual occupation fee;
 - v) in the opinion of an Authorised Officer, the street vending or footway restaurant conducted by the applicant poses an unacceptable safety hazard to pedestrians, motorists or cyclists; or
 - vi) in the opinion of an Authorised Officer, the applicant has caused or is causing detriment to the amenity of the area, having regard to any complaints received and/or inspections undertaken.
- o) A street vending consent or footway restaurant approval may be cancelled by Council with 90 days' notice within the first year of its operation, and with 30 days' notice in any subsequent year. No claim for compensation will arise from such cancellation, and the applicant shall be responsible for vacating all of the approval area.

2.1.7 Footpath occupation fee

The footpath occupation fee is based on a per metre rate of the approval area in accordance with [Council's annual schedule of fees and charges](#). It is based on a reasonable return on land value, which may vary for different parts of the commercial areas.

3 APPLICATION

3.1 Repeal of Previous Policy

Upon adoption, this policy repeals Council Policy No F07 Commercial Use of Footpaths, adopted by Council on 26 August 2010 (Minute No 260810/24).

3.2 Land to which this Policy Applies

- a) This policy applies to all land in Ballina Shire comprising a public road for which Council is the roads authority.
- b) This policy does **not** apply to private land or to roads for which Council is not the roads authority.

Note: This policy does not apply to [busking on public roads or in a public place \(refer to Council's Policy No B01 Busking\)](#) or to [commercial activities on public land \(refer to Council's Policy No C10 Commercial Activities on Public Land\)](#).

4 BACKGROUND

A policy in relation to the commercial use of footpaths was originally adopted by Council in August 2010 following the commencement of provisions that exempted the commercial use of footpaths from consent requirements under the *Environmental Planning Assessment Act 1979*.

This policy has now been adopted to detail Council's approval requirements under the *Local Government Act 1993* and the *Roads Act 1993*, and for the use of public roads for commercial activities that include street vending, alfresco dining and merchandise displays.

5 LEGISLATIVE CONTEXT

5.1 [Environmental Planning and Assessment Act 1979](#)

Section 76 of the *Environmental Planning and Assessment Act 1979* makes provision for development that is exempt from the consent requirements under the Act. An environmental planning instrument may specify development as exempt development under the provisions of section 76. The commercial use of footpaths in Ballina Shire is exempt development when it meets the requirements of clause 3.1 and Schedule 2 of the [Ballina Local Environmental Plan 2012](#) (BLEP 2012). Schedule 2 of the BLEP 2012 provides the following specifications for commercial use of footpaths that are exempt development:

- a) Must be located on the footpath within a road reserve for which the Council is the roads authority under the *Roads Act 1993*
- b) Must hold any relevant approval issued under the *Roads Act 1993* or the *Local Government Act 1993* (or both)
- c) Must not occupy an area greater than 30 m² per operator.

Note: [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) also applies to footway dining. As the SEPP provisions will override the BLEP 2012 (in the event of an inconsistency), applicants will need to refer to the SEPP.

5.2 [Roads Act 1993](#)

The *Roads Act 1993* provides that Ballina Shire Council is the roads authority for public roads in the shire. Section 125 of the Act allows Council to grant approval for "footway restaurants" subject to the terms and conditions of the Act. Section 138 of the Act specifies the consent requirements for structures on a public road, with relevant terms and conditions specified for "street vending" detailed in section 139A. An approval granted by Council under this policy constitutes an approval for either a "footway restaurant" or "street vending" as specified in the *Roads Act 1993*.

5.3 [Local Government Act 1993](#)

Section 68 of the *Local Government Act 1993* specifies activities requiring prior approval of Council and includes activities on a public road that "expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road." An approval granted by Council under this policy constitutes an approval for activities on a public road in accordance with section 68 of the *Local Government Act 1993*.

6 DEFINITIONS

- Alfresco dining:** The use of an outdoor area for the service and consumption of food and drink.
- Applicant:** A person or organisation applying for approval to undertake street vending or to operate a footway restaurant.
- Application:** An application made under this policy.
- Application area:** The area proposed for street vending or the establishment of a footway restaurant.
- Approval area:** The footpath area the subject of an approval for street vending or a footway restaurant approval.
- Authorised Officer:** An officer of Ballina Shire Council authorised in the administration and/or enforcement of this policy.
- Council:** Ballina Shire Council
- Footpath application:** An application made under this policy to undertake street vending or to operate a footway restaurant.
- Footpath occupation fee:** The annual fee payable to Council to undertake street vending or to operate a footway restaurant.
- Footway restaurant:** An alfresco dining establishment on a public road for which approval is required under section 125 of the *Roads Act 1993*.
- Footway restaurant approval:** An approval granted under this policy for a footway restaurant.
- Public road:** As the context requires, has the same meaning as specified in the *Local Government Act 1993* and/or the *Roads Act 1993*.
- Small-scale commercial use of footpaths:** The commercial use of footpaths that meets the exempt development requirements specified in clause 3.1 and Schedule 2 of the *Ballina Local Environmental Plan 2012* and that meets the following requirements:
- a) Involves the use of footpaths within a road reserve for which Council is the roads authority under the *Roads Act 1993*
 - b) Is for the purpose of small-scale commercial/business use such as alfresco dining, display of merchandise and the like
 - c) Occupies an area not greater than 30 m² per operator
 - d) Is operated in conjunction with an authorised adjoining use
 - e) Does not involve the erection of permanent enclosures/structures
 - f) Does not interfere with the safety and free passage of other users of the footpath

g) Does not result in the loss of any car parking.

Street vending: The sale and/or display of goods and merchandise on a public road for which consent is required under section 139A of the *Roads Act 1993*.

Street vending consent: Approval granted under this policy to undertake street vending.

7 SCOPE OF POLICY

This policy outlines the approval process and Council requirements for small-scale street vending and footway restaurants on public footpaths in Ballina Shire. Some of the design requirements may be applicable for other developments that are subject to other approval processes.

Council's Commercial Services Unit is responsible for the granting of street vending consents and footway restaurant approvals where proposals comply with the requirements of this policy or are otherwise authorised by Council.

8 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Local Government Act 1993](#)
- b) [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#)
- c) [Roads Act 1993](#)
- d) [Environmental Planning and Assessment Act 1979](#)
- e) [Ballina Local Environmental Plan 2012](#).

9 REVIEW

The Commercial Use of Footpaths policy will be reviewed at least every four years.

POLICY NAME: MARKETS ON PUBLIC LAND
POLICY REF: M01
MEETING ADOPTED:
POLICY HISTORY: 280906/052



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1 OBJECTIVE

The objectives of this policy are:

- a) to provide a process on how market organisers may obtain approval to hold a [market](#) in Ballina Shire on land owned or managed by Council;
- b) to ensure that market organisers are aware of Council’s requirements in order to assist and encourage the efficient organisation of markets; and
- c) to ensure that market organisers receive required approvals in a timely and orderly manner to enable the establishment of markets in suitable locations and at appropriate times.

2 POLICY

2.1 Land to which this Policy Applies

This policy applies to all [public land](#) in Ballina Shire local government area.

2.2 Approvals Required

- a) Operating a market on public land in Ballina Shire is exempt development under Schedule 2 of [Ballina Local Environmental Plan 2012](#). However, an approval from Council under section 68 of the *Local Government Act 1993* is required (an [Event Approval](#)). Should an Event Approval be granted, it is likely to contain a number of conditions, not necessarily limited to the matters contained within this policy. All approvals will include a “sunset clause” to limit the duration of the approval to three years to provide Council and the community with an opportunity to review and, where appropriate, improve aspects of the market’s operation.
- b) In relation to proposed markets on public land, it is likely that any approval granted would also be dependent upon suitable arrangements being made for the licensing of the market site.
- c) An [Application for Events on Public Land](#) form can be obtained from Council’s website or by contacting Council.

- d) [Appendix 1](#) provides guidelines on Council's requirements for information to be supplied when making an application to operate a market on public land.

2.3 Organising a Market on Public Land

- a) Council will advertise for expressions of interest for the operation of the proposed market.
- b) Criteria for selection as a market organiser will be:
 - i) demonstrated community benefit
 - ii) experienced in the operation of markets
 - iii) holder of public liability insurance to meet Council's requirements.
- c) The market organiser will need to demonstrate how funds from the market will be allocated. The market must be conducted at no cost to the community, with running costs being covered from stall fees.
- d) Preference will be given to Ballina Shire-based organisations and then to organisations that operate within the region.

2.4 Requirements for the Operation of a Market on Public Land

2.4.1 Frequency

Only one market located on public land will be approved to operate on any one day within Ballina Shire, unless it can be established to the satisfaction of Council that more than one market operating concurrently will not result in any significant adverse economic, social or cultural impact upon authorised existing markets. Markets located on public land may only be conducted on any one site at a frequency of not more than once per week.

2.4.2 Location

- a) Council may authorise markets during normal business hours where it can be satisfied that the market will be either compatible with or supportive of business operating in the vicinity, and where access and infrastructure are otherwise adequate.
- b) The selection of a suitable site is essential. Matters that require consideration in selecting a site include and may not be limited to the following: proximity to residences; accessibility; availability of adequate parking; availability of services such as power, water and toilets; proximity to existing commercial activities; suitability during wet weather and severe weather conditions.
- c) Depending on the site, Council may limit the maximum number of stallholders permitted to operate in any particular market.
- d) The conduct of markets must be consistent with any plan of management and licensing arrangements for that site.

2.4.3 Goods for Sale

- a) Merchandise offered for sale in the market should preferably be of such a nature and type as to reflect and display the industries and crafts of this region.
- b) The market organiser is responsible for checking that all stallholders are appropriately licensed, eg:
 - i) Second-hand dealers' licences
 - ii) Plant dealers do not sell noxious plants or environmental weeds. (Refer to the [Bushland Friendly Nursery Scheme list of environmental weeds](#) on Council's web site for details.)
 - iii) Food stalls are registered with the NSW Food Authority either in their own right or by the market organiser and, insofar as is practical, ensure that all stallholders comply with statutory requirements. The only exception from registration with the NSW Food Authority for food stalls is for those run by charities and community groups which are holding a fundraising event that is not-for-profit.
- c) No animals or birds may be sold or offered for sale within the market.

2.4.4 Public Liability

- a) The market management must hold a Public and Products Liability policy to the value of \$10,000,000 for any occasions that the market is conducted. This policy must specifically indemnify Council from any claim arising from or incidental to the holding or conducting of the market. A certificate of currency is also to be presented to Council prior to the commencement of any market and upon request from Council.
- b) Stallholders and/or operators of any mechanical ride or device are required to hold an individual policy specifically related to that stall, ride or device and in the same general terms of indemnity.

2.4.5 Risk Management

The market organiser must provide Council with a Risk Management Plan. ([Appendix 2](#) provides information that can be used as a guide for inclusion in a Risk Management Plan.)

2.4.6 Approval Charges and Site Fees

- a) Section 68 Event Approval fee at the time of application.
- b) Fees charged for stalls shall be set by the market organiser and should be used to cover expenses incurred in the operation of the market.

2.4.7 Profits from Markets Operating on Public Land

The market organiser must include in the application for Event Approval the proposed allocation of funds to cover the cost of operating the market and the allocation of funds to community projects or groups.

2.4.8 Inspections by Council Officers

- a) Council officers may attend the market to ensure compliance with legal obligations and Council's requirements. Where an inspection is carried out, inspection fees will be charged to the individual stallholder, in accordance with [Council's adopted schedule of fees and charges](#).
- b) If a Council officer determines that a particular stall is unsuitable to trade (eg it does not comply with hygiene requirements), the market organiser is responsible for ensuring that the stall is immediately removed from the market.

2.4.9 Sale of Food

- a) The sale of food in NSW is regulated under the [Food Act 2003 and the Food Regulation 2010](#). These laws incorporate the provisions of the Australian Food Standard Code including the food safety and hygiene standards of Chapter 3 of the Code.
- b) It is mandatory for all food stall operators to register their business details with the NSW Food Authority. No food stall is able to operate without registration. Regular stallholders can register direct via the [Authority's Notification website](#). Market organisers will need to register and, through their registration, notify casual stallholders prior to them operating.
- c) Food stall operators are required to register their food stall on [Council's Commercial Premises Register](#). Registration forms are available by contacting Council. Food stall operators will not be permitted to operate at markets in Ballina Shire without proof of Council registration. No fee is required for the registration of food stalls on the Commercial Premises Register.
- d) Council will seek compliance with all the general requirements as well as those that apply to food vehicles and stalls. The hygiene and food safety requirements of the *Australia New Zealand Food Standards Code* (Standards 3.1.1, 3.2.2 and 3.2.3) are available from the [Food Standards Australia New Zealand website](#).

For further assistance in the safe operation of a food vehicle or stall, refer to the [North Coast Regional Code for Sale of Food at Markets and Temporary Events](#), which is available from Council's website.

Particular attention is drawn to the requirements for keeping food out of the food danger zone by storing at a temperature of 5° C or less, or at 60° C or more.

- e) Council officers may attend the market to inspect food stalls. Where an inspection is carried out, food inspection fees will be charged in accordance with [Council's adopted schedule of fees and charges](#).
- f) An adequate supply of potable (town supply) water is to be available either from town mains or from supply tanks/containers at each food vehicle or stall.

2.4.10 Gas

- a) The gas installation on any food or other vehicle shall be installed by a licensed gasfitter. A current compliance plate shall be affixed to the vehicle.

Note: The removal of any gas appliance or changes made to the original gas installation require further certification and affixing of a new compliance plate. Any vehicle not fitted with a compliance plate applicable to the current installation will not be permitted to operate.

- b) Any gas-fired appliance used in the open may not have a gas bottle greater than 9 kg in capacity, and the bottle must be retained (so that it cannot be tipped over).

2.4.11 Waste Management

- a) A Waste Management Plan (WMP) identifying the location of garbage and recycle bins is to be submitted with any application for Event Approval.
- b) Market organisers are responsible for all costs incurred in relation to waste management, including the provision of additional bins, collection costs and landfill disposal costs.
- c) Organisers are responsible for ensuring the market ground is free from litter during and after the market.
- d) The market organiser should develop a management strategy that addresses the following issues:
 - i) Prohibit the use of glass bottles for safety reasons
 - ii) Indiscriminate distribution of promotional material. Promotional material should only be handed out to patrons who show an interest
 - iii) Use products that are recyclable, re-usable or compostable whenever possible
 - iv) Avoid using or selling products with excessive packaging.
- e) The market organiser is responsible for the final clean up of the site and immediate surrounds of any material that may have originated from the site during the market, to the satisfaction of Council.

2.4.12 Face Painting

The NSW Health Department has advised that it is necessary for face painters to take precautions to prevent the spread of disease. No face painting is to occur without observing these precautions. Details are available from Council or the Division of Population Health, Northern Rivers Health Service – Lismore Office Ph 02 6620 7500.

2.4.13 Animals

- a) Unless specifically approved by Council in writing, it is not permissible to have dogs or other animals or birds at any stall or within any amusement except where the animal is a guide dog, or otherwise permitted by legislation.
- b) The bringing of dogs onto a market site by the public may be permitted where the animals are leashed, but Council reserves the right to prohibit the presence of dogs.

2.4.14 Toilet and Ablution Facilities

- a) It is desirable that all persons attending the market have convenient access to permanent toilet and ablution facilities or to Council-approved facilities connected to on-site sewage management systems.

A guide as to the number of toilets and basins required can be determined by reference to a formula set out in [Table F2.3 – Sanitary and Other Facilities, Health and Amenity, Building Code of Australia](#). For outdoor events the requirements for a 9b building can be applied.

- b) All toilet facilities are to be kept clean, free of odour, and be fit for use throughout the event.

2.4.15 Noise

The [NSW State Government provides guidelines](#) to assist Council with respect to noise. The time at which noise occurs and the nature of the noise may affect neighbourhood amenity. The organiser of the market needs to consider the location of stalls and equipment to minimise the impact on residents. Council considers noise an important matter when considering any application for Event Approval.

2.4.16 Carnival Amusements

- a) All carnival amusements are to be covered by a current public liability insurance policy to meet Council's requirements.

A copy of the policy document and receipt, clearly showing that the policy is paid up over the period the market is to take place, must be provided to the market organiser and be able to be produced upon request for inspection by a Council officer. Amusement operators are required to have documentation on hand for inspection by Council authorised officers whenever the device is operated.

- b) All mechanical rides are to be covered by a current NSW Work Cover certification (known as an "x" or green card). The card is to be available before the market and at time of setup for inspection by Council authorised officers. Council will require strict compliance with all conditions set out on the certificate, and will wish to see the permanent mark matching the certification on the device.
- c) Mechanical rides may only be set up on suitable sites, preferably level and sufficiently firm to withstand the operation of the ride in all weather conditions.

2.4.17 Signage

Signage promoting the market is not to be erected at the site or on any other land without the prior approval of Council in accordance with Council's [Development Control Plan 2012](#) and other relevant planning provisions.

2.4.18 Pollution Prevention

It is the responsibility of the market organiser to ensure that in the preparation for or running of the market, land contamination, air or water pollution does not occur. In particular, it is essential to ensure that pollution of waters does not eventuate. Particular reference is made to sediment control if there are any earthworks undertaken or placement of metal dust. Car washing is not permitted in most

circumstances as wastewater and detergents can readily enter waterways causing pollution.

2.4.19 Parking

The market organiser may be required to apply to Council to have a Traffic Management Plan prepared if it is deemed necessary. The cost of preparing this plan is the responsibility of the applicant.

3 BACKGROUND

Markets are conducted regularly in various centres in the North Coast Region, reflecting the lifestyle and cultural diversity of our area and, at the same time, providing for an expansion in the region's tourism base.

Council supports the market concept and enhancing the social, cultural and economic well-being of residents and visitors. Markets also provide an outlet for services and merchandise which, at times, are not readily available from established retailing outlets.

Council wishes to promote the opportunity for markets to be conducted, particularly those that showcase and promote products and services generated from within our region.

Council must ensure that the venues for markets and the manner in which they are conducted are acceptable in terms of public health, safety and amenity, and should not unreasonably adversely impact on those who operate conventional lawful business enterprises in the vicinity.

Where the market is to be operated on land that is classified as Community land or other public land that is in the care and control of Council (referred to in this policy as public land), it is desirable that revenue from the operation of the market be used to cover the cost of operating the market and maintenance of the market site. It is preferable (though not essential) that any remaining profits be returned to the community.

Council anticipates that this policy will be beneficial in providing guidelines for those who wish to participate in market operation in Ballina Shire. It is noted, however, that compliance with this policy does not necessarily imply that Council will grant approval to particular applications.

4 DEFINITIONS

<i>Council:</i>	Ballina Shire Council
<i>Event Approval:</i>	Permission to hold an event on public land under the ownership or care and control of Council.
<i>Market:</i>	Retail premises comprising an open air or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stallholders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

Not-for-profit group: An individual or group that returns any profits from the charging of market site fees to the running of the market or to a nominated community group or charity.

Private land: Any land that is not public land.

Public land: Land under the ownership or care and control of Council.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Market organisers.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Ballina Local Environmental Plan 2012](#)
- b) [Ballina Development Control Plan 2012](#)
- c) [North Coast Regional Code for Sale of Food at Markets and Temporary Events](#)
- d) [Protection of the Environment Operations \(Noise Control\) Regulation 2008](#)
- e) [NSW Food Act 2003](#)
- f) [NSW Food Regulation 2010](#)
- g) [Australia New Zealand Food Standards Code \(3.1.1, 3.2.2 and 3.2.3\)](#)
- h) *Australian Standard 1596-1997 Storage and Handling of LP Gas*
- i) *Australian Standard 5601-2000 Gas Installations*
- j) *Australian Dangerous Goods Code 1998 (Federal Office of Road Safety)*
- k) [Building Code of Australia – Sanitary and Other Facilities, Health and Amenity](#)
- l) [Event Guidelines](#)
- m) [Events on Public Land policy.](#)

7 REVIEW

The Markets on Public Land policy will be reviewed at least every four years.

APPENDIX 1 – GUIDELINES – INFORMATION TO BE SUBMITTED WITH AN APPLICATION FOR EVENT APPROVAL – MARKETS

The type of information required to be submitted with your application is as follows:

- a) A plan, drawn to scale, showing the area of land the market will occupy, together with a stall layout. The plan should also illustrate:
 - i) The size and number of stalls
 - ii) The width of access ways
 - iii) Provision for the free movement of emergency vehicles or crowds
 - iv) Access for servicing of waste receptacles and wastewater holding tanks, where applicable
 - v) Access for stallholders
 - vi) Car parking
- b) Details of the type of stalls proposed
- c) Details of waste disposal and amenities
- d) Frequency and duration of the market
- e) Emergency Evacuation Plan
- f) Risk Management Plan
- g) Waste Management Plan
- h) Details of signage
- i) Details of amplified sound or music
- j) Water supply points and availability of potable water
- k) Toilet facilities and numbers for each sex
- l) Electricity distribution points
- m) Arrangements made to facilitate food stall registration
- n) Traffic Management Plan
- o) Information on how funds from the market will be allocated.

APPENDIX 2 – GUIDELINES – UNDERSTANDING RISK MANAGEMENT FOR MARKETS

The management of risk is a critical factor in the professional management of any event. Risk management is a structured process of identifying, evaluating and controlling risks in a way that will minimise organisational losses and maximise opportunities.

1) Sources of Risk may include:

- a) Poor planning
- b) Inadequate management
- c) Individual errors – wrong advice or negligence
- d) Unsafe physical conditions
- e) Natural weather events such as storms, wind, rain
- f) Commercial and legal relationships – with suppliers and contractors
- g) Economic factors
- h) Inadequate or non-existent safety measures
- i) Design error, inadequate testing, poor quality control
- j) Human behaviour, intentional acts, sabotage
- k) Technology and technical issues.

2) Risk Areas to Consider for Markets:

- a) Administration including staff, both paid and volunteer, finances, contracts and relationships with suppliers, liability and negligence, permits and licences including those with all government authorities.
- b) Marketing and public relations including media coverage, advertising and sponsors.
- c) Health and safety of both attendees and stallholders. This would include fireworks and pyrotechnics, fire safety, sanitation and maintenance, animal handling and equipment. The organiser should ensure that all relevant regulations are followed and that all relevant permits are in place.
- d) Crowd management including crowd movement and seating, shade, safe and obstruction-free walkways, noise control, services for people with disabilities, lost and found.
- e) Security including policies, staffing, crowd control, anti-social behaviour, incident reporting and evacuation/emergency management procedures.
- f) Mechanical devices/rides and their operators should be certified by the relevant government authorities and proof of this provided to the market organiser.

3) Risk Identification:

This involves identifying possible risks to the event.

Some methods of identification could include:

- a) A review of written information such as programs of events, licences and permits of stallholders, contracts and all insurance policies (both your own and stallholders).
- b) Regular meetings with stallholders, contractors, staff, emergency personnel and Council to clearly communicate involvement levels and expectations. The number of stallholders, the goods and services being provided and their location should be recorded.
- c) Surveying the site, both in the days leading up to and early on the morning of the event, can assist to assess the suitability of the site and identify and remove/reduce any hazards.
- d) Conduct a cause and effect analysis. This process will identify potential scenarios and determine their likely effects.

4) Risk Evaluation:

Once all the risks have been identified they can then be listed, assessed and ranked in order of importance. Major consequences or those with a high probability of occurring should be ranked of high importance and addressed first. Those with a minor consequence or with a low probability of occurring should be addressed later. To obtain an understanding of Risk Evaluation, further information is available on the [NSW Work Cover website](#).

5) Risk Control:

When the risks have been identified and evaluated, a Risk Management Plan then needs to be developed to control those risks.

There are many ways to control risks. These include:

- a) Cancel or avoid the risk. When a risk cannot be removed it may be necessary to cancel all or part of an event.
- b) Diminish the risk. If the risk cannot be eliminated, take steps to minimise it.
- c) Reduce the potential consequence of the risk. Have prepared efficient responses to foreseeable problems.
- d) Distribute the risk by spreading it across different areas.
- e) Transfer the risk by making other groups or individuals responsible for some components of the market.

6) Review of Risk Strategies:

All risks must be constantly monitored at all times to ensure the effectiveness of the Risk Management Plan. The plan must be reviewed after any incidents, and updated if appropriate. The plan must be communicated to new stallholders and amended, if appropriate, to suit their requirements.

POLICY NAME: MONUMENTS & MEMORIALS ON PUBLIC LAND
POLICY REF: M02
MEETING ADOPTED:
POLICY HISTORY: 251007/22



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1 OBJECTIVE

The objectives of this policy are:

- a) to preserve the amenity of [public land](#) by managing the placement of private [memorials and monuments](#); and
- b) to provide guidelines on what memorials and monuments may be placed in public places and the process that needs to be followed to gain approval for them.

2 POLICY

2.1 Memorials and Monuments Located on Public Land

The creation or placement of memorials or monuments on public land is only permitted with the approval of Council, other than for small roadside memorials.

2.2 Seats

- a) Council will consider applications for the placement of seats with plaques in appropriate locations, such as along paths, and in accordance with any plans of management that may operate for the public land. Applications must be made in writing with a clear description of the proposed location.
- b) The seat will be made to Council's specifications, and Council approval will be required for the wording to be placed on a plaque.
- c) The purchase and placement of the seat will be at the expense of the applicant, and the location of the seat will be agreed with Council.

2.3 [Plinths](#) and Rocks with Plaques

Such memorials will not be permitted on public land unless the person, event or location is of historical significance and the memorial is approved by resolution of Council.

2.4 Trees

- a) Council will consider applications for the planting of trees on public land. The location and species of the trees will be to Council's specifications. Trees will not be marked with plaques. The cost of trees will be at the expense of the applicant.
- b) Applications must be made in writing with a clear description of the proposed location.

2.5 Roadside Memorials

Council approval is not required for the placement or creation of small roadside memorials. However, if a memorial is considered by Council to be a safety risk to the public or if the RMS requires its removal then the memorial will be removed without notification.

3 BACKGROUND

3.1 Memorials for Family Members

The placement of memorials such as rocks with plaques, plinths with plaques, seats with plaques or trees has in the past been carried out by residents without reference to Council. These memorials are generally placed to commemorate the passing or the life of a family member, and are often placed along paths or in locations with views and high scenic amenity and significance.

The placement of rocks and plinths to commemorate the life of a family member may not have any significance to the broader community. However, the appearance of such

memorials may also be offensive to other members of the community and can have the effect of creating a graveyard appearance on public land.

Ballina's public land contains a wealth of biodiversity with high conservation value, especially the coastal reserves. Many individual threatened species exist on these sensitive sites and so too do several endangered ecological communities such as Themeda grasslands and littoral rainforests, all of which are protected under the *Threatened Species and Conservation Act 1995*. A scientific licence under the *National Parks and Wildlife Act 1974* is required to harm or damage threatened species or endangered ecological communities.

3.2 Roadside Memorials

Roadside memorials can take a number of forms, but are generally a cross or rock with the name of the deceased on them, and there are generally flowers placed at the site with photographs.

Such memorials, if safely located, can be a timely reminder to other road users of the need to drive safely. This policy does not seek to require applications for consent to install such memorials, but does allow for the removal of a memorial if it is a safety hazard.

4 DEFINITIONS

Council: Ballina Shire Council

Memorials and monuments: Structures made of concrete, marble or timber or the like, which have words inscribed onto them and may take on a variety of sizes and shapes. Headstones in cemeteries are an example of a memorial or monument.

Plinths: Structures onto which plaques are attached. They may be made of concrete, marble or timber or the like.

Public land: Land under the ownership or care and control of Council.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors
- c) Community members.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) *Local Government Act 1993*
- b) *Crown Lands Act 1989*.

7 REVIEW

The Monuments and Memorials on Public Land policy will be reviewed at least every four years.

POLICY NAME: PUBLIC ART
POLICY REF: P03
MEETING ADOPTED:
POLICY HISTORY: 250805/19



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1 OBJECTIVE

The objectives of this policy are:

- a) to encourage the provision of innovative items of [public art](#) in key locations which identify and reinforce the shire’s cultural identity, community values and create a strong sense of place;
- b) to promote artistic expression by providing opportunities for artists, designers and local community groups/organisations/individuals to showcase quality works; and
- c) to reinforce Council’s commitment to ensure that public art is a valued and legitimate means of embellishing the shire’s key public spaces.

2 POLICY

For the purpose of achieving the objectives of this policy, the following actions will be employed:

2.1 Development and Public Art

- a) Commercial, retail or tourist developments having a capital value in excess of \$1 million, which are proposed to be undertaken on land zoned for Business purposes under Council's local environmental plan must, as a condition of development consent, incorporate an item of public art having a minimum value of \$15,000 as an integral part of that development.
- b) In the alternative, Council will encourage the proponent of the development to contribute an equivalent amount towards the provision of public art in a public place. In these circumstances, Council will make every reasonable effort to work co-operatively with the development proponent or his/her nominated representative to ensure the public art commissioned is mutually acceptable to the developer and Council, and that it is to be exhibited/displayed in a location within reasonable proximity to the development site.

2.2 Council and Public Art

- a) Council, as part of the annual preparation of its Operational Plan, will consider a budgetary allocation for the provision of public art.
- b) Council will form a Public Art Advisory Panel that is responsible for providing advice to the Council's General Manager in relation to the effective implementation of this policy. The membership of the panel will be as follows:
 - i) Three Councillors (one from each ward), one of whom will chair the panel; each will have voting rights
 - ii) One representative of Arts Northern Rivers, with voting rights
 - iii) Council staff members (as determined by the General Manager) – no voting rights.

The panel will operate under a Terms of Reference prepared by Council's General Manager, but will not be provided with delegations of the Council's authority.

3 BACKGROUND

Ballina Shire is located within the Northern Rivers region of New South Wales and is part of the traditional Country of the Bundjalung people.

Council acknowledges our community's strong cultural and historic ties to the land, the quality of the shire's natural and environmental attributes, and the strength and diversity of the region's artistic community.

These values, recognised and embodied in Council's local sustainability strategy ([People, Place, Prosperity: A framework for a more sustainable Ballina Shire 2025](#)), underpin Council's desire to support the provision of public art in prominent locations within the shire.

In so doing, the potential for public art to contribute as an economic stimulus within our local community through job creation and visitation is also recognised.

A Public Art policy was first adopted by Council in August 2005, outlining the processes for the procurement, co-ordination and management of public art. Few projects have been delivered under the initial policy and Council has a desire to increase its commitment and effectiveness in this aspect of its operations.

Council anticipates that the introduction of this second version of a Public Art policy has the potential to deliver the following benefits:

- a) Improve the visual appeal and amenity of the shire's urban environment
- b) Acknowledge and express the "distinctiveness" of the different parts of our shire
- c) Promote social inclusion and recognise differing community values
- d) Reinforce the cultural identity of Ballina Shire and its place within our region.

4 DEFINITIONS

<i>Council:</i>	Ballina Shire Council
<i>Public art:</i>	Lawfully undertaken artistic works, activities or expression created for and located within public spaces or on private property which is generally accessible to members of the public. The artwork may have a primary or secondary function of utility value as an item of operational furniture or equipment.
<i>Public artist:</i>	An artist skilled and experienced in the creation or fabrication of public art.
<i>Community public art:</i>	Public art created by members of the community, or a community or service-based organisation, in consultation with and supervised by a public artist.

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees and contracted employees/consultants
- b) Councillors
- c) Community members
- d) [Public artists](#)
- e) Proponents of eligible commercial, retail and tourist developments.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Ballina Shire Council's current Community Strategic Plan, Delivery Program and Operational Plan](#)
- b) [Ballina Shire Sustainability Strategy – People, Place, Prosperity: A framework for a more sustainable Ballina Shire 2025](#)
- c) [Ballina Shire Development Control Plan 2012](#)
- d) [Plans of Management for Crown and Council-owned land](#)
- e) Council procedure – Use of Public Infrastructure for Public Art.

7 REVIEW

The Public Art policy will be reviewed at least every four years.

POLICY NAME: WEDDINGS ON PUBLIC LAND
POLICY REF: W03
MEETING ADOPTED:
POLICY HISTORY: 131207/21



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1 OBJECTIVE

The objectives of this policy are:

- a) to ensure that [public land](#) in Ballina Shire is retained for passive and active recreation for residents and visitors; and
- b) to enable the use of public land in Ballina Shire for wedding ceremonies, and to provide some certainty of availability of selected sites.

2 POLICY

- a) A [written application](#) is required to advise Council of the intention to conduct a wedding in a public place. The holder of the approval from Council will have priority of use of an area should another person wish to use the same location at the same time.
- b) The application should include a wedding date and time, duration of the ceremony, venue (precise location), proposed use of amplified music, approximate size of the wedding and any equipment such as chairs and small domestic-scale shade structures.

- c) A period of two hours is allowed for the ceremony and photographs.
- d) [Council's schedule of fees and charges](#) will prescribe the application fee required for all written applications.
- e) Approval to conduct a wedding on public land does not provide exclusive use of the area, nor does it obligate Council to carry out any works in preparation for the wedding.
- f) Should the applicant wish to erect a marquee or hold a reception on public land, the applicant would need to complete an [Application for Events on Public Land](#) form in accordance with Council's [Events on Public Land policy](#), and the event would be subject to the applicable fees. It is unlikely, however, that approval would be granted for such an event on beaches, headlands or in coastal reserves because such activities are not permitted under the [Ballina Coastal Reserve Plan of Management](#).

3 BACKGROUND

Conducting wedding ceremonies in parks and on beaches and headlands managed by Council is a popular option for many people. These ceremonies can be large, and the very nature of the ceremony can impact on the use of public reserves by other people.

The intent of this policy is to enable wedding ceremonies to take place on public land and provide some certainty of availability of selected sites, while at the same time manage the impact on the general public.

4 DEFINITIONS

Council: Ballina Shire Council

Public land: Land under the ownership or care and control of Council

5 SCOPE OF POLICY

This policy applies to:

- a) Council employees
- b) Councillors
- c) Community members
- d) Wedding businesses.

6 RELATED DOCUMENTATION

Related documents, policies and legislation:

- a) [Events on Public Land policy](#)
- b) [Application for Events on Public Land](#)

- c) [*Ballina Coastal Reserve Plan of Management*](#)
- d) [Adopted Fees and Charges.](#)

7 REVIEW

The Weddings on Public Land policy will be reviewed at least every four years.