

11.2 Policy (Review) - Markets

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OBJECTIVE

The objectives of this policy are to:

- Provide a documented process on how market organisers may obtain approval to hold a market in Ballina Shire on both privately owned land and land owned or managed by Council;
- Ensure that market organisers are aware of Council's requirements so as to assist and encourage the efficient organisation of markets; and
- Ensure that market organisers receive requisite approvals in a timely and orderly manner.

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 for 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 (here after referred to as public land) it is desirable that the revenue from the operation of the markets be used to cover the cost of operating the market, maintenance of the market site and any remaining profits be returned to the community.

Council anticipates that the following 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 development consent to particular applications.

DEFINITIONS

Council Ballina Shire Council

Market 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 stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

In Ballina Shire a market may operate regularly on no more than one day of a week.

"One off" community based or charitable events and fundraisers such as fetes, which are conducted not more than once a year, are not regarded as markets for the purpose of this policy.

SCOPE OF POLICY

This policy applies to:

- Council employees
- Market organisers

RELATED DOCUMENTATION

This policy has been prepared with reference to the following publications:

- Council's Local Environmental Plan
- Council's Combined DCP - Chapter14 - Advertising Signage
- North Coast Regional Code for Sale of Food at Markets and Temporary Events
- Protection of the Environment (Noise Control) Regulation 2008
- NSW Food Act 2003
- NSW Food Regulation 2004
- Australian Food Standards Code (3.1.1, 3.2.2 and 3.2.3)
- Australian Standard 1596-1997 Storage and Handling of LP Gas
- Australian Standard 5601-2000 Gas Installations
- Australian Dangerous Goods Code 1998 (Federal Office of Road Safety)
- Building Code of Australia - Sanitary and other Facilities, Health and Amenity

POLICY

1. *Aims*

This policy aims to:

- Outline Council's requirements for conducting markets in Ballina Shire on private and public land;
- Provide clear guidelines to ensure that markets located on public land are organised and managed in a manner that benefits the community;
- Enable the establishment of regular markets in the Shire in locations and at times determined by Council as being suitable for such activities.

2. *Land to Which This Policy Applies*

This policy applies to all land in Ballina Shire Local Government Area.

3. *Approvals Required*

To operate a Market in Ballina Shire, on either private or public land, development consent from Council is required. Should development consent be granted, it is likely to contain a number of conditions, not necessarily limited to the matters contained in this policy. All

consent notices will include a "sunset clause" to limit the duration of the consent to three (3) years to provide Council and the community with an opportunity to review and, where appropriate, improve aspects of the market's operation.

In relation to proposed markets on public land it is likely that any consent granted would also be contingent upon suitable arrangements being made for the licensing of the market site.

To seek consent to conduct a market a development application must be lodged. Development Application forms can be downloaded from council's website www.ballina.nsw.gov.au or by contacting Council's Regulatory Services.

Appendix 1 provides information on Council's requirements for the operation of a market on both private and public land. These requirements must be addressed in a Development Application.

In considering the establishment of a market, it is important to establish whether the proposed land use, a market, is permitted on the site(s) being considered. This information is provided in the Local Environment Plan.

4. Markets Located on Public Land

Were markets are located on public land Council will advertise for expression of interest for the operation of the proposed market.

Criteria for selection as a market operator will be:

- not for profit group
- experienced in the operation of markets
- holder of public liability insurance to meet Council's requirements.

The market operator will need to demonstrate how funds from the markets will be allocated. The markets must be conducted at no cost to the community with the running costs being covered from stall fees and any remaining funds being allocated to the community as specified by the market operator.

A not for profit group is defined as an individual or group whom returns any profits from the charging of market site fees to the running of the markets or to a nominated community group or charity. Preference will be given to Ballina Shire based organisations and then to organisations that operate within the region.

5. Requirements for the Operation of a Market on Public and Private Land

a) Location and Frequency

Only one market 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 impacts upon authorised existing markets. Markets may only be conducted on any one site at a frequency of not more than once per week.

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.

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.

Depending on the site Council may limit the maximum number of stall holders permitted to operate in any particular market.

Where the proposed site of the market is public land the conduct of markets must be consistent with any Plans of Management and licensing arrangements for that site.

b) Goods for Sale

Merchandise offered for sale in the markets should preferably be of such a nature and type as to reflect and display the industries and crafts of this region.

The market operator is responsible for checking that all stallholders are appropriately licensed, eg.

- Second hand dealers' licences;
- Plant dealers do not sell noxious and environmental weeds. List is provided in Appendix 2 detailing plants that must not be sold at the markets.
- Food stalls are registered with NSW Food Authority either in their own right or by the market operator and, in so far as is practical, ensure that all stallholders comply with statutory requirements. The only exception from registration with NSW Food Authority for food stalls is for those run by charities and community groups which are holding a fund raising event that is not for profit.

No animals or birds may be sold or offered for sale within the market.

c) Public Liability

The market management, for each market, 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 on request from council.

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.

d) Risk Management

The market organiser must provide a Risk Management Plan. Appendix 3 provides information that should be included in a Risk Management Plan.

e) Rental Charges and Fees

Development Application fee at the time of application.

Markets located on public land; fees charged for stalls shall be set by the market operator and should be used to cover the expenses incurred in the operation of the market.

Markets located on private land shall set their own stall fees.

f) Profits from Markets Operating on Public Land

Where the market is conducted on public land the market operator must include in the Development Application the proposed allocation of funds to cover the cost of operating the market and the allocation of funds to community projects or groups.

g) Inspections by Council Officers

Council Environmental Health Officers may attend the markets to ensure compliance with legal obligations and Council's requirements. Where an inspection is carried out inspection fees will be charged to the individual stall holder, in accordance with Council's adopted schedule of fees and charges.

If a Council Officer determines that a particular stall is unsuitable to trade (eg: it does not comply with hygiene requirements) the Market Operator will be responsible for ensuring that the stall is immediately removed from the Market.

h) Sale of Food

The sale of food in NSW is regulated under the Food Act 2003 and the Food Regulation 2004. These laws incorporate the provisions of the Australian Food Standard Code including the food safety and hygiene standards of Chapter 3 of the Code.

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 www.foodnotify.nsw.gov.au. Market organisers will need to register and, through their registration, notify casual stallholders prior to them operating.

Food stall operators are required to register their food stall on Council's Commercial Premises Register. Registration forms are available by contacting Council's Regulatory Services. Food stall operators will not be permitted to operate at the markets in Ballina Shire without proof of Council registration. No fee is required for the registration of food stalls on the Commercial Premises Register.

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 Australian Food Standards Code (Standards 3.1.1, 3.2.2 and 3.2.3) are available from Food Standards Australia New Zealand's website www.foodstandards.gov.au Review of Risk Strategies.

For further assistance in the safe operation of a food vehicle or stall, the 'North Coast Regional Code for Sale of Food at Markets and Temporary Events' 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.

Council Environmental Health Officers attend the markets to inspect food stalls. Where an inspection is carried out food inspection fees will be charged in accordance with the Council's adopted schedule of fees and charges.

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.

i) Gas

The gas installation on any food or other vehicle shall be installed by a licensed gasfitter. The installation shall comply with the appropriate provisions of Australian Standard 1596-1997 Storage and Handling of LP Gas and Australian Standard 5601-2000 Gas Installations or any standard superseding these. The Australian Dangerous Goods Code 1998 (Federal Office of Road Safety) applies to any vehicle with a gas installation that is to operate on a public road. 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.

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).

j) Waste Management

A Waste Management Plan (WMP) identifying the location of garbage and recycle bins is to be submitted with any Development Application.

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.

Organisers are responsible for ensuring the market ground is free from litter during and after the market.

The market organiser should develop a management strategy that addresses the following issues:

- Prohibit the use of glass bottles for safety reasons.
- The indiscriminate distribution of promotional material. Promotional material should only be handed out to patrons who show an interest.
- Use products which are recyclable, re-usable or compostable whenever possible.
- Avoid using or selling products with excessive packaging.

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.

k) Face Painting

The NSW Health Department has advised that it is necessary for face painters to take precautions to prevent 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.

l) Animals

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.

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.

m) Toilet and Ablution Facilities

It is desirable that all persons attending the market have convenient access to permanent toilet and ablution facilities connected to Council's sewerage system.

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.

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

n) Noise

The Department of Environment and Conservation in NSW 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 operator of the market needs to consider the location of stalls and equipment to minimise the impact on residents. The Council considers noise as an important matter in considering any development application.

o) Carnival Amusements

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 at request for inspection by a Council Officer. Amusement operators will be required to have documentation on hand for inspection by Council authorised officers whenever the device is operated.

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 set up 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.

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.

p) *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 Combined Development Control Plan (DCP) - Chapter 14 - Advertising Signage and other relevant planning provisions.

q) *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 the pollution of waters does not eventuate. Particular reference is made to sediment control if any earthworks are undertaken or placement of metal dust. Car washing is not permitted in most circumstances as wastewater and detergents can readily enter waterways causing pollution.

r) *Parking*

The market organiser maybe required to apply to Council's Civil Services to have a Traffic Management Plan prepared if it is deemed necessary. The cost of preparing this plan is the responsibility of the applicant.

REVIEW OF POLICY

The Market Policy is to be reviewed at least every four years.

APPENDIX 1 - Information to submit with market development application

Applications lodged with Council for consent to conduct a market must be accompanied by the following:

- 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:
 - The size and number of stalls
 - The width of access ways
 - Provision for the free movement of emergency vehicles or crowds
 - Access for servicing of waste receptacles and waste water holding tanks, where applicable,
 - Access for stallholders
 - 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 - PLANTS NOT TO BE SOLD AT MARKET**Groundcover weeds**

Blue Billygoat Weed	<i>Ageratum houstonianum</i>
Bulbil Watsonia	<i>Watsonia meriana</i>
Canna Lily	<i>Canna indica</i>
Cuphea	<i>Cuphea carthagenensis</i>
Fishbone Fern	<i>Nephrolepis cordifolia</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Glory Lily	<i>Gloriosa superba</i>
Ground Asparagus	<i>Asparagus aethiopicus</i>
Hairy Commelina	<i>Commelina benghalensis</i>
Kahili Ginger	<i>Hedychium gardnerianum</i>
White Ginger Lily	<i>Hedychium coronarium</i>
Mother of Millions	<i>Bryophyllum delagoense</i>
Resurrection Plant	<i>Bryophyllum pinnatum</i>
Mother of Millions Hybrid	<i>Bryophyllum daigremontianum X tubiflorum</i>
Bryophyllum	<i>Bryophyllum proliferum</i>
Singapore Daisy	<i>Wedelia trilobata</i>
Striped Trad	<i>Tradescantia zebrina</i>
Trad	<i>Tradescantia fluminensis</i>

Vine weeds

Aerial Yam	<i>Dioscorea bulbifera</i>
Asparagus Fern	<i>Asparagus africanus</i>
Balloon Vine	<i>Cardiospermum grandiflorum</i>
Black-eyed Susan	<i>Thunbergia alata</i>
Blue Trumpet Vine	<i>Thunbergia grandiflora</i>
Bridal Creeper	<i>Asparagus asparagoides</i>
Cape Ivy	<i>Delairea odorata</i>
Cat's Claw Creeper	<i>Macfadyena unguis-cati</i>
Climbing Asparagus	<i>Asparagus plumosus</i>
Climbing Nightshade	<i>Solanum seaforthianum</i>
Coastal Morning Glory	<i>Ipomoea cairica</i>
Corky Passionfruit	<i>Passiflora suberosa</i>
Crabs-eye Creeper	<i>Abrus precatorius</i>
Dutchman's Pipe	<i>Aristolochia elegans</i>
Calico Flower	<i>Aristolochia littoralis</i>
Japanese Honeysuckle	<i>Lonicera japonica</i>
Kudzu	<i>Pueraria lobata</i>
Madeira Vine	<i>Anredera cordifolia</i>
Moon Flower	<i>Ipomoea alba</i>
Morning Glory (Blue)	<i>Ipomoea indica</i>
Morning Glory (Common)	<i>Ipomoea purpurea</i>
Moth Vine	<i>Araujia sericifera</i>
White Passion Flower	<i>Passiflora subpeltata</i>

Shrub / Scrambler weeds

Buddleia	<i>Buddleja davidii</i>
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Butterfly Bush	<i>Buddleja madagascariensis</i>
Coral Berry	<i>Ardisia crenata</i>
Cotoneaster (Grey)	<i>Cotoneaster franchetii</i>
Cotoneaster (Large-leaf)	<i>Cotoneaster glaucophyllus</i>
Cotoneaster (Silver-leaf)	<i>Cotoneaster pannosus</i>
Creeping Lantana	<i>Lantana montevidensis</i>
Duranta	<i>Duranta repens</i>
Lantana	<i>Lantana camara</i>
Mickey Mouse Plant	<i>Ochna serrulata</i>
Mysore Thorn	<i>Caesalpinia decapetala</i>
Orange Firethorn	<i>Pyracantha fortuneana</i>
Privet (Small Leaf)	<i>Ligustrum sinense</i>
Senna (Winter)	<i>Senna pendula</i> var. <i>glabrata</i>
Senna (Smooth)	<i>Senna pendula</i> X <i>floribunda</i>
Yellow Bells	<i>Tecoma stans</i>

Small tree weeds

African Olive	<i>Olea africana</i>
Black Locust	<i>Robinia pseudoacacia</i>
Brazilian Cherry	<i>Eugenia uniflora</i>
Broad-leaved Pepper Tree	<i>Schinus terebinthifolia</i>
Cherry Guava	<i>Psidium cattleianum</i>
Chinese Tallow	<i>Triadica sebifera</i>
Coffee	<i>Coffea arabica</i>
Golden Willow Wattle	<i>Acacia saligna</i>
Guava	<i>Psidium guajava</i>
Large Leaf Privet	<i>Ligustrum lucidum</i>
Leucaena	<i>Leucaena leucocephala</i>
Loquat	<i>Eriobotrya japonica</i>
Orange Jessamine	<i>Murraya paniculata</i> "seeding form"
Umbrella Tree	<i>Schefflera actinophylla</i>

Large tree weeds

Cadaghi	<i>Eucalyptus torelliana</i>
Camphor Laurel	<i>Cinnamomum camphora</i>
Chinese Celtis	<i>Celtis sinensis</i>
Cocos Palm	<i>Syagrus romanzoffianum</i>
Golden Rain Tree	<i>Koelreuteria paniculata</i>
Honey Locust	<i>Gleditsia triacanthos</i>
Ice Cream Bean	<i>Inga edulis</i>
Pine (Slash)	<i>Pinus elliottii</i>
Pine (Radiata)	<i>Pinus radiata</i>
Powton Tree	<i>Paulownia fortunei</i>
Princess Tree	<i>Paulownia tomentosa</i>

Aquatic weeds

Parrot's Feather	<i>Myriophyllum aquaticum</i>
Glush Weed	<i>Hygrophila costata</i>

APPENDIX 3 - 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.

Sources of Risk may include:

- Poor planning
- Inadequate management
- Individual errors-wrong advice or negligence
- Unsafe physical conditions
- Natural weather events such as storms, wind, rain
- Commercial and legal relationships-with suppliers and contractors
- Economic factors
- Inadequate or non-existent safety measures
- Design error, inadequate testing, poor quality control
- Human behaviour, intentional acts, sabotage
- Technology and technical issues

Risk Areas to Consider for Markets

- Administration including staff, both paid and volunteer, finances, contracts and relationships with suppliers, liability and negligence, permits and licenses including those with all government authorities.
- Marketing and public relations including media coverage, advertising and sponsors.
- 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.
- Crowd management including crowd movement and seating, shade, safe and obstruction free walkways, noise control, services for the disabled, lost and found.
- Security including policies, staffing, crowd control, anti-social behaviour, incident reporting and evacuation-emergency management procedures.
- Mechanical devices/rides and their operators should be certified by the relevant government authorities and proof of this provided to the market organiser.

Risk Identification

This involves identifying possible risks to the event.

Some methods of identification could include;

1. 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.
2. 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.
3. Surveying the site both in the days leading up to and early on the morning of can assist to assess the suitability of the site and identify and remove / reduce any hazards.

4. Conduct a cause and effect analysis. This process will identify potential scenarios and determine their likely effects.

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 to occur should be ranked of high importance and thus addressed first. Those with a minor consequence or have a low probability of occurring should be addressed later. To obtain an understanding of Risk Evaluation, further information is available on the NSW Department of Work Cover website www.workcover.nsw.gov.au

Risk Control

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

There are many ways to control risks. These include:

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

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.