

**POLICY NAME:** Markets on Public Land Policy  
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**OBJECTIVE**

The objectives of this policy are:

- a) to provide a documented process describing how market managers may obtain approval to hold a market on public land in Ballina Shire that is owned or managed by Council, including parks, open spaces or streets;
- b) to outline key matters to be addressed in the operation of markets on public land;
- c) to ensure that market managers are aware of Council's requirements in order to assist and encourage the efficient organisation of markets;
- d) to ensure that market managers receive requisite approvals in a timely and orderly manner; and
- e) to encourage markets in circumstances that support local and regional food production and other small business initiatives.

**POLICY**

**1. Land to Which This Policy Applies**

This policy applies to all Council owned land and all Crown land managed by Council as a Reserve Trust Manager.

This policy applies to all market proposals and agreements (including licence renewals) after the date of adoption of this policy.

**2. Policy Requirements**

**a. Application**

- Parties proposing to hold a market on public land in Ballina Shire must lodge a completed Application for Markets on Public Land.
- Applicants must address the Ballina Shire Market Guidelines (Public Land) when completing an application.
- A completed application is required for all new market proposals and all market renewals after the date of adoption of this policy.
- Council may accept direct proposals for a market on public land or call for expressions of interest to conduct a market on public land whether or not there is an existing market or market proposal relating to an area.

**b. Fees and Charges – refer to Council’s Schedule of Fees and Charges**

Market applications may be subject to fees and charges, licence fees and/or ground bonds in accordance with Council’s adopted Fees and Charges. Examples of fees include application fees, ongoing licence fees (for use of public land), and inspection fees.

**c. Operating Requirements**

Markets must address and comply with the requirements established in the Ballina Shire Market Guidelines (Public Land). The guidelines may be updated to reflect legislative changes or amendments to accepted best practice standards.

**d. Assessment of Applications**

- When assessing applications Council staff will consider a range of assessment criteria based on the Ballina Shire Market Guidelines (Public Land), including, but not limited to:
  - *Environmental impacts* – impact on environmental attributes including flora and fauna;
  - *Social impacts* – impact on residential amenity, conflicts with other user groups and organisations, availability of land;
  - *Economic impacts* – likely economic benefits and detriments to the locality and the shire;
  - *Infrastructure impacts* – demand for use of public infrastructure, capacity of infrastructure and potential impacts;
  - *Risk assessment* – approach to the management of risks and stallholders ensuring the health and safety of patrons and stallholders and the general public.
- Council may instigate an expression of interest process in relation to the operation of a market on public land. Council will determine the EOI criteria as part of the EOI process. As a guide, the following criteria may be applied:
  - Ability to develop, implement and monitor a Market Management Plan in accordance with Ballina Shire Market Guidelines (Public Land);
  - Experience in market management and meeting market licence conditions;
  - Knowledge of the region’s markets;
  - Experience with and commitment to environmentally sustainable operations and initiatives;
  - Social and environmental benefits to the local community;
  - Benefits to the local economy.

### e. **Licensing**

All market approvals will require the market manager to enter into a licence with Council for the occupation of land where the market operates. Licence fees are set out in Council's fees and charges.

### f. **Dispute Resolution**

In the event of a dispute between Council and the market manager or where a breach of the licence agreement has been identified, Council may request the parties attend a formal dispute resolution process where the issues cannot be otherwise resolved.

Council will not engage in any dispute resolution between stall holders or between stall holders and market manager.

### g. **Insurances and Risk Management**

- The market manager will be required to provide evidence of insurance cover for public liability, workers compensation and products liability in sums as directed by Council's insurer;
- The market manager must provide Council with a risk management plan demonstrating identification of risks and proposed management responses.

### h. **Reporting**

The market manager is required to provide reporting on the operation of the market to Council on an annual basis. This information is to include details of economic and social benefits provided, stall holder numbers, incident reporting and other content as determined by Council in the licence agreement.

### i. **Determination**

- Market approvals which are endorsed by Council will be for an initial term of twelve months. Should the market operator wish to continue with the market after the first 12 month term, Council may grant a further term of up to three years.
- At the expiry of a licence agreement, Council may call for expressions of interest for the operation of a market on the land;
- All new applications to conduct a market on public land will be reported to Council for determination. A current licence for a market on public land may be reported to Council where a substantial change is proposed to operations, where there is recent community feedback relating to market operation or where the elected Council determines a review is required. In other circumstances renewals will be managed through the process for the use of the Council seal.

**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 wellbeing 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. Importantly, Council recognises that some markets are focussed on community outcomes whilst others are a more commercial enterprise. Markets are not conducted on behalf of Council but rather by parties that have an interest in operating markets.

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, complement existing uses of the public land 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.

Markets conducted on public land do not require development consent to be granted, as they are considered a special event for the purposes of the Environmental Planning and Assessment Act under the Ballina Local Environmental Plan 2012 (NOTE: some land in the shire is not subject to the BLEP 2012. In these cases, the regulation framework should be checked with Council's Development and Environmental Health Group) .

This policy does not cover markets held on private land. Council's prior market policy included markets on private land, however this created ambiguity. Any market proposal which occurs on private land will typically be addressed through the development application process.

**DEFINITIONS**

<b>Council</b>	Ballina Shire Council
<b>Market</b>	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. Markets operating as part of an event which has received Event Approval in accordance with Council’s event policy are not regarded as markets for the purpose of this policy.

**Ballina Shire  
Market Guidelines  
(Public Land)**

A document designed to assist market managers comply with the regulations and procedures associated with operating markets on public land in Ballina Shire.

**Public Land**

Council owned land, Crown land managed by Council or public roads under the ownership or care and control of Council.

**Private Land**

Any land which is not public land for the purposes of this policy.

**SCOPE OF POLICY**

This policy applies to:

- Council employees
- Councillors
- Community members
- Not-for-profit community groups
- Commercial organisations
- Market managers

**RELATED DOCUMENTATION**

Related documents, policies and legislation:

- Local Government Act 1993
- Crown Land Act 1989
- Environmental Planning and Assessment Act 1979
- Ballina Shire Market Guidelines (Public Land)
- Ballina Local Environmental Plan 2012 an 1987
- 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

## 9.6 Policy (Review) - Markets on Public Land.DOC

Ballina Shire Council

Markets on Public Land Policy

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### **REVIEW**

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

## **BALLINA SHIRE MARKET GUIDELINES (PUBLIC LAND)**

### **1. INTRODUCTION**

The Market Guidelines are designed to assist market managers with the requirements and procedures associated with operating markets in parks, open spaces or public roads under the ownership and/or control of Ballina Shire Council. These guidelines must be addressed as part of any application for a licence to conduct a market on public land.

### **2. APPLICATION & APPROVAL PROCESS**

#### **2.1 Application Form**

Applications are to be lodged via the 'Markets on Public Land Application Form' with the accompanying documents including a market management plan addressing these Guidelines.

To allow sufficient processing time, market managers are required to lodge applications at least 3 months prior to the proposed market commencement date.

#### **2.2 Fees & Charges**

Applicants may be subject to fees and charges, licence fees and/or ground bonds in accordance with Council's adopted Fees and Charges. A current schedule of fees and charges is available on Council's website.

An explanation of the fees is as follows:

Initial – an application fee is payable upon lodgement of the market application or an application for renewal. This fee partially covers staff time in processing the application.

Ongoing (licence fees) – licence fees are payable for the occupation of community land for the purpose of a market. The payment of a licence fee represents a return to the community for the occupation of community land. Markets operated by a not for profit group may be eligible for a discounted licence fee, in recognition of the benefit provided to the community by that organisation.

Inspection fees - these fees are set each year in Council's schedule of fees and charges and are payable for the inspection of temporary food premises by Council.

Consumption charges – these fees include water, waste and electricity costs where access to Council service is required. The charges for these services may vary and should be determined as part of the market application process

#### **2.3 Assessment, Approval and Licencing**

Council aims to assess applications within two months of lodgement. Market managers may be required to attend a meeting with Council staff to discuss the application and potential licence conditions.

Council may decide not to grant a licence for a market to operate where:

- insufficient information is provided,



- a market or land is deemed unsuitable having regard for the environmental, social, economic, infrastructure and/or risk considerations for the proposed market; or
- where Council believes there is lack of market management skills and experience held by the applicant.

Approval conditions will be granted in the form of a licence to occupy land. The initial approval period will be for 12 months with the potential to renew for a further period of up to three years.

Council may call for expressions of interest for the operation of a market:

- at the expiration of a licence,
- in response to an application for a market operation; or
- where Council wishes to invite the use of a land parcel for a market.

### **3. MARKET MANAGER RESPONSIBILITIES**

A market manager is the legal entity responsible for the operation of the market, including the entity who has taken out public liability insurance coverage specific for the operation of the markets.

As part of the application and assessment process, Council requires the submission of a market management plan. Information required to be addressed in a market management plan is included in these guidelines.

### **4. PERMITS & REGULATIONS**

Depending on the elements in the market, there may be approvals, permits or licences required.

Examples of approvals issued by Ballina Shire Council include market approval, venue hire/booking, food vendor permits, amplified sound, temporary road closures and amusement rides and inflatable devices.

Examples of approvals issued by other agencies include liquor licences, fundraising authorisations, notice of public assembly, and RMS approvals for use of some roads or waterways.

### **5. MARKET LOCATION**

#### **5.1 Suitability**

The market site will need to be carefully assessed to ensure it is suitable for the operation of a market. A number of factors will need to be considered, these include, but are not limited to; site capacity, facilities, parking, public amenities, access, exposure to strong winds and/or venues adjacent to residences. The site should not have the potential to become waterlogged or be subject to flash flooding in the event of a sudden storm.

In the case of an emergency (including a potential bushfire), the site plan must clearly identify safe assembly areas and escape routes.

### 5.2 Electricity Supply and Installation

Electricity is available at selected parks and reserves and will need to be sufficient to cater for the market, including the needs of anticipated food vehicles/stalls/amplified music. For larger markets where electricity supply is limited, or in areas where there is no electricity, a low noise emitting generator will be required for power supply. A site inspection will determine if there are Council controlled electrical facilities in appropriate locations at the market site. Electrical work is to be carried out by an appropriately qualified and insured electrician. Any costs associated with upgrades or connections to existing electricity supplies will be the responsibility of the market manager.

Night markets will need to ensure adequate lighting for walkways and exits in case of an emergency evacuation, and to provide safe access to and from the site. Market managers will also be required to ensure back-up generators are available to provide adequate lighting in case of a blackout. Details of existing and proposed lighting for night-time use must be submitted with the market application.

### 5.3 Accessibility

To make the market as inclusive as possible it should be accessible to people with a disability. To maximise accessibility, the market site should be able to facilitate:

- public and/or private transport to and from the market
- parking areas for people with a disability
- accessible facilities such as toilets and food and drink counters
- access for emergency vehicles
- wide entrance and exit paths, and
- information in large print for people with sight impairment.

## 6. MARKET MANAGEMENT PLAN

A market management plan must address the following:

### 6.1 Manager Details

The market manager's details, including whether the market manager is a not for profit entity or a commercial operator;

### 6.2 Stall and Product Information

- Style of market and proposed goods for sale (including origin of the goods and details of any certification for the goods);
- Maximum number of stalls;

### 6.3 Site Plan

It is necessary for the market manager to carefully consider the layout of the market site in the context of existing site features. The layout will need to take into account access for emergency vehicles (fire trucks, police and ambulances), traffic management (public parking, disabled parking and pedestrian access), access for servicing of garbage receptacles and toilets, first aid facilities, movement in and out

of the site by stallholders and staff and sufficient space for free movement of the public.

The site plan must provide an plan of the proposed market site. The site plan must be drawn to scale and clearly show where the market will operate and contain details of the locations of all entrance, exits and facilities etc.

The site plan needs to clearly identify a safe assembly area and escape routes in case of an emergency (including a potential bushfire).

The content of a site plan should reflect the various aspects of the market. Some suggested inclusions are locations of;

**A. Structures & Site Features**

- the market manager's stall
- entertainment areas, exclusion areas
- liquor outlets including approved liquor consumption areas / no-alcohol (dry) areas
- food vendors/stalls
- toilets

**B. Access and Thoroughfares**

- all entrances and exits
- distance between stalls and public spaces and thoroughfares
- safe assembly evacuation areas
- access for emergency vehicles at least six metres wide, (fire, trucks, police and ambulances), including routes around and through the market used by vehicles
- parking, including stallholder parking
- accessible points for persons with a disability, including ramps and wheelchair-accessible routes

**C. Facilities**

- fire-fighting equipment / first aid
- electricity access points
- shelter and shade
- waste receptacles and recycling facilities
- toilets access points
- water and electricity
- first aid facilities
- facilities for people with a disability
- sitting/eating areas
- location of nearest hydrants
- any static water supplies proposed in non-town water reticulated areas e.g. tanker facilities (ensuring sufficient water supplies are available for firefighting where markets are on bushfire prone land).
- location of open flame charcoal/gas or electric cookers (avoiding locating these facilities in close proximity to fuels and dried up vegetation to avoid a potential bushfire ignition).

#### **6.4 Pedestrian, Traffic and Parking Management**

Traffic and transport issues can arise as a result of market activity. This includes setting up and packing down the market site.

If it is anticipated that the market will have an impact on traffic and/or transport then a Traffic Management/Control Plan (TMP or TCP) will be required. This plan needs to address road and traffic related matters, including for example: vehicle numbers, turning movements, parking, effects on surrounding roads, disabled access and pedestrian access.

An application for a market that includes a road closure will be referred to Council's Traffic Committee. The Committee is made up of representatives of Council's Civil Services Group, the NSW Police and the Roads and Maritime Services (RMS). The Committee will give advice on the acceptability of a proposal, necessary amendments to the proposal, and the requirements for a Traffic Control Plan (if needed). Most markets in Ballina Shire are unlikely to require detailed and complex Traffic Management Plans.

It is important to provide sufficient parking for people attending and working at the market, including stallholder car parking. Markets which are not accessible by scheduled public transport it may be necessary to provide additional parking facilities.

#### **6.5 Waste Management Plan**

One of the key areas of responsibility in conducting a market is to effectively manage waste on the market site and surrounding areas. The existing rubbish bins and sanitary disposal units at the market site have been installed by Council to cater for general users.

The market manager is responsible for supply and appropriate disposal of additional waste facilities generated at the market site and surrounding areas. Market Management Plans must include a Waste Management Plan as part of your application for market approval.

The following is a guide to the number of additional bins for attendee use (not including existing public bins) at markets are:

1 x 240L bin per 100 attendees – if no food or drinks served/sold  
2 x 240L bin per 100 attendees – if food or drinks served/sold  
2 x 3m front load skip bins and 2 x 240L recycle bin per 100 attendees, for events greater than 1,000 attendees.

#### **6.6 Risk Management Plan**

Risk management is a significant consideration in the operation of markets. During the planning stage it is essential that a risk management plan is developed specifically for the market location. Once this is developed it is important that the risks continue to be monitored and reviewed. A sample risk matrix is included in the Market Application Form.

The risks identified in a risk management plan will depend on the nature, location, time and duration of the market. Night markets or markets selling alcohol may be required to provide additional security or safety measures.

A risk management plan should incorporate provisions for cancellation of a market due to a severe weather event.

Council reserves the right to cancel a market approval at short notice where risk or safety concerns are identified.

#### **6.7 Public Liability Insurance**

The market manager must obtain and hold public liability insurance in a minimum amount as directed by Council, with Council listed as an interested party on the policy. Council may request evidence of insurance coverage at any time. It is the market manager's responsibility to ensure all sub-contractors hold adequate insurance specific to the work or activity being carried out.

#### **6.8 Fire Management**

It is the responsibility of the market manager to ensure that all market attendees can be promptly evacuated to a place of safety in the event of an emergency. Market managers are required to prepare an evacuation plan in the case of any emergency, including fire and including the supply and use of fire equipment.

#### **6.9 Incident Reporting and Complaint Handling**

- It is a requirement of the licence document to have a system in place to record incidents or accidents that may occur. It is important that everyone working at the market has a clear understanding of how to record incidents and what to do with this record at the end of the market. Council must be notified of any incidents that have been notified to the market manager. The incident or accident register must be available to Council on request.
- Market managers are required to have a complaint management process as part of the market management plan. Complaints received by Council regarding the day to day operation of the market (ie, stallholder disputes) will be directed to the market manager for resolution in accordance with the complaint management process. The complaints management process should provide for both verbal and written complaints, recording of the complaints in a register, appropriate remedies for complaints and confidentiality of personal and private information received by the market manager.
- Complaints or notifications received by Council regarding breaches of the licence agreement will be addressed in accordance with clause 2(f) of the Markets on Public Land Policy.

#### **6.10 Work Health & Safety**

Market managers have a duty of care to provide a safe environment in which staff, volunteers, performers and contractors can work. Depending on the nature of the market, there are certain legislative responsibilities that must be adhered to. WorkCover NSW has further details regarding WHS requirements for markets.

**6.11 Noise Management**

Balancing a need for entertainment with the community's right to enjoy reasonable quiet can be a challenge. Generally all markets are required to comply with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

However Council can approve a market which will exceed the prescribed noise levels if satisfied that the market will be run and managed in such a way as to minimise any impacts on nearby residential areas.

Markets may be required to prepare a noise management plan and distribute a community notification leaflet, if a noise impact is anticipated.

**6.12 Maintenance and Repair to Licence Area**

The market manager will be responsible for reporting to Council any damage caused to the licence area as a result of the market's operation.

Where the operation of the market has cause damage to the licence area, the market manager will have the responsibility for remediating any damage or payment of any costs to Council for the remediation of any damage.

Market management plans are to document a system for recording and reporting damage and maintenance.

**6.13 Amusement Rides and Devices**

Amusement rides and devices require a separate s68 approval from Council, and WorkCover. These applications should be made separately in accordance with the approval process in Council's Events on Public Land Policy.

The use and/or operation of any amusement rides or devices should be identified in the market management plan including a separate risk assessment for each ride or device

**6.14 Electrical Connections and Outlets and/or use of Portable Gas Supply**

Safety and effective market operation are key considerations with respect to electricity and gas supply. Market management plans must identify electricity and gas needs and how these supplies will be safely managed on site.

**6.15 Signage and Promotion**

Signage promoting the market must not be set up at the site without the prior approval of Council. A temporary signage plan outlining the location, size and layout of the signs must be submitted with market applications. All market signage must comply with the applicable planning requirements under the Ballina Local Environmental Plan 1987 and 2012 and any applicable state policy. For further information see Council's website for Community Event Signage and Banner Pole policies.

**6.16 Food Vendors**

All food suppliers, including not-for-profit and charity fundraisers, are required to sell safe and suitable food in compliance with the Food Standards Code. The NSW Food Authority publishes guidelines which provides minimum standards for the preparation, display, handling and labelling of food and beverages in line with the Code.

Council registration is needed for stalls that include the sale of food and beverages and for the installation of temporary food stalls.

Water used for any activities in the preparation of food, personal hygiene, cleaning and sanitising must be of a potable standard. Non-potable water may be used for cleaning and similar uses only where it will not compromise the safety of food on the premises.

On bushfire prone land sites, market managers are required to provide details of any proposed appliances to be used on site eg. open flame charcoal/gas or electric cookers. It will also be necessary that all food vendors with kitchen cooking appliances have fire extinguishers and a fire blankets.

Council's Environmental Health Officer may attend the market. Where an inspection is deemed necessary food inspection fees will be charged in accordance with the Council's adopted scale of fees and charges.

Market management plans must identify how compliance with relevant food safety requirements will be achieved.

**6.17 Alcohol**

Details of any proposal to sell or consume alcohol must be provided with the market application. The market management plan must outline how alcohol sales will be managed and how risks will be mitigated, along with details of appropriate liquor licensing and RSA compliance.

Council has two forms of alcohol regulation that which relate to alcohol consumption in public areas. These are Alcohol Free Zones and Alcohol Prohibition.

**Alcohol Free Zones**

An Alcohol Free Zone (AFZ) is a regulation put in place to prevent disorderly behaviour caused by the consumption of alcohol on public roads, footpaths and public car parks. AFZs are in place in Wardell, Alstonville, Ballina and Lennox Head CBDs prohibiting the consumption of alcohol 24 hours a day, seven days a week.

**Alcohol Prohibited**

Areas that are Alcohol Prohibited prohibit the carrying and or consumption of alcohol in public areas such as parks, reserves and beaches by the placing of signs prohibiting these actions. Council has implemented Alcohol Prohibition in all parks and reserves between the hours of 10.00pm and 7.00am seven days a week, unless signposted differently.

All sports fields and surrounding reserves are Alcohol Prohibited areas.

Council can erect Alcohol Prohibited signage upon the request of the Market managers to ensure compliance with the regulation.

**6.18 Services**

**Toilet and Ablution Facilities**

Market managers may be required to supply additional toilet facilities specifically for attendees depending on the existing availability of toilet facilities.

**Water**

The market manager must consider the availability of potable water that is needed for drinking, washing etc and the supply source. If an extensive quantity of water is required and it is sourced from a Council supply, Council may require it to be metered and paid for.

**7. FURTHER DETAILS**

The Markets on Public Land Policy and Markets on Public Land Application Form are available from Council's website.

For further information about the Ballina Shire Market Guidelines (Public Land), or to make an application to commence a market in Ballina Shire, or for any other market enquiries, the following contact information is provided:

General market enquiries	Strategic and Community Facilities Group Sustainability Planner	6686 1284
Leasing and licencing enquiries	Strategic and Community Facilities Group Property Officer Community Land	6686 1284
Food approvals	Development and Environmental Health Group Environmental Health Officer – Food Specialist	6686 1221
Signage Community banner poles – enquiries and bookings	Customer service staff	6686 4444
Rangers	Development and Environmental Health Group	6686 1210
Fees and charges	Customer service staff	6686 4444
Waste management	Civil Services Group	6686 1287
Road closures/traffic management enquiries	Civil Services Group	6686 4444
Work Health and Safety enquiries	NSW WorkCover	13 10 50