

CODE OF PRACTICE

Code Title: STREET ACTIVITIES CODE OF PRACTICE

Reason for Code: To provide guidance on the matters to be considered and procedures for assessing applications for approvals and permits for certain activities on public roads (including footpaths) and public car parks within the Shire.

Introduction: Council's Street Activities Policy identifies Council's position with regards to the use of public roads (including footpaths) and public car parks for the following activities:

- Street Stalls
- Mobile Food Businesses
- Mobile Community Services
- Busking

This Code outlines the specific activity requirements, application procedures and the obligations of operators and Council.

Code Details: This Code covers :

1. [Specific Activity Requirements](#)
 - 1.1 [Street Stalls](#)
 - 1.2 [Mobile Food Businesses](#)
 - 1.3 [Mobile Community Services](#)
 - 1.4 [Busking](#)
2. [Procedures for Mobile Food Business Approvals](#)
3. [Procedures for Street Stall and Busking Approvals](#)
4. [Procedures for Mobile Community Services](#)
5. [Operator's Responsibilities](#)
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1. Specific Activity Requirements

1.1 Street Stalls

Pursuant to Section 68 Part E of the Local Government Act, 1993, activities that expose articles in, on or over a public road (including on the footpath), whether for sale or otherwise, require an approval.

Approvals will only be issued for street stalls at the designated sites below, or at alternative sites adjoining retail or commercial premises in the business or village zones where the safety and amenity of pedestrians will not be compromised. Proponents of street stalls at

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alternative sites must notify the operator of the adjoining premises prior to submitting an application for approval.

Batemans Bay

1. In front of the Commonwealth Bank, Orient Street
2. In front of Country Energy, Orient Street
3. In front of Woolworths, Clyde Street
4. In front of Harvey Norman, Clyde Street
5. In front of Target, Orient Street
6. In front of Woolworths east, Flora Crescent,
7. In front of the Old Westpac Building, Orient Street

Moruya

Street stalls will be permitted at appropriate locations on Vulcan Street, Church Street and Queen Street, Moruya.

Narooma

1. In front of the newsagency, near the traffic lights, Wagonga Street (on the hill)
2. In front of the IGA Supermarket, Princes Highway (on the flat)

Batehaven

1. In front of the Batehaven Newsagents, Beach Road
2. Outside Batehaven Mall, Corrigans Crescent (carpark side)

Street stalls shall preferably be located outside of the *footpath walkway zone*. However, Council may approve street stalls to be located adjacent to a building (i.e within the footpath walkway zone) in locations away from entrances to retail or commercial premises, where a minimum of 2.7m is available between the stall and the kerb line.

Operators of approved street stalls shall not unduly obstruct the footpath, undertake any activity associated with the street stall away from the designated site or cause any harassment of the general public.

Approvals will not permit *spruiking* or the use of public address systems or other forms of amplification in association with street stalls.

Note: Fund raising activities that include the preparation of food for sale (such as a barbeque event) are not appropriate activities on public roads, including on footpaths, or public car parks. Such activities are more appropriately located on public reserves.

Note: Fund raising activities that include the raffling of large items which are proposed to be on display at the site, such as a wheelbarrow or trailer of goods, a large Christmas stocking, a vehicle or the like, may be approved by Council in appropriate locations where the activity will not obstruct the footpath walkway zone. Large items for display must not be located in any on-street parking space.

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1.2 Mobile Food Businesses

Pursuant to Section 68 Part F of the Local Government Act, 1993, the use of a standing vehicle or any other article for the purpose of selling any article in a public place requires an approval.

Approvals will only be issued for mobile food businesses to park for a temporary period in public car parks and to intermittently stop on roads where the speed limit does not exceed 50kph and not within school zones.

Note: For the purposes of this Code, the terms “temporary” and “intermittent” refer to the period of time the operator is engaged in serving a customer or customers.

Approvals will not be issued for mobile food businesses to operate in locations within 250m of an established shop, stall, sports ground or market/festival selling similar goods when it is open for trading.

The temporary parking of mobile food businesses on public roads or public car parks must have regard to the safety of pedestrians accessing the vehicle.

Note: Approvals are not required for the driving or parking of any other mobile business on public roads or public car parks, however such mobile businesses cannot operate their business from a public place and Council will not issue approvals for any such operation. Mobile businesses that operate from private premises may require development consent.

Note: Approvals are not required for mobile emergency assistance services such as the NRMA Roadside Assistance Service, or for vehicle towing businesses and the like.

1.3 Mobile Community Services

The standing of a mobile community service vehicle in a public car park is not an activity that requires an approval under the Local Government Act, 1993. The Street Activities Policy provides that a letter of agreement from Council is required prior to setting up a mobile community service in a public car park.

Council encourages the setting up of mobile community services for a temporary period of time at the designated sites below or at public car parks that meet the following criteria:

- good exposure to passing traffic;
- not a priority parking area (a priority parking area has high demand and high turnover, such as a paid parking area or the parking area in the immediate vicinity of retail premises);
- sufficient available parking for customers;
- close proximity to toilet facilities; and
- close proximity to food premises.

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Council will also consider the parking of mobile community services at other locations, such as on the grounds of existing community facilities where appropriate and where parking for the community facility is not significantly reduced.

Batemans Bay

At Batemans Bay, the parking area adjacent to the Catalina Sports and Leisure Club has been designated as a suitable site for the parking and operation of mobile community services, as shown in red on the map below:



Moruya

At Moruya, the parking area adjacent to Riverside Park has been designated as a suitable site for the parking and operation of mobile community services, as shown in red on the map below:



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Narooma

At Narooma, the parking area adjacent to Bill Smyth Oval amenities block has been designated as a suitable site for the parking and operation of mobile community services, as shown in red on the map below:



1.4 Busking

Pursuant to S68 Part D of the Local Government Act, 1993, busking is an activity that requires an approval.

Busking shall preferably be located outside of the footpath walkway zone. However, Council may approve individual buskers to be located adjacent to a building (i.e. within the footpath walkway zone) in locations away from the entrances to retail or commercial premises, where a minimum of 2.7m is available for pedestrians between the busker and the kerb line.

Buskers must not unduly obstruct the footpath, place obstacles in people's way or cause any other nuisance to passing pedestrians. Guitar cases, hats, or other objects for collection of money must not be located in a manner that obstructs pedestrian movement along the footpath.

Approvals may permit the use of amplified music or public address systems for busking activities on a trial basis. Should complaints be received from the public regarding excessive noise from approved busking activities, Council reserves the right to revoke the approval and/or refuse to grant further approvals.

Approvals for busking will not permit the use of *dangerous materials* or animals.

Note: For a busking act that contains more than one person, only one approval will be required.

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2. Procedures for Mobile Food Business Approvals

2.1 Application and Submission Requirements

The following information is required from the applicant when submitting an application for an approval:

- A completed Application Form;
- A description of the activity, including the type of vehicle to be used and the type of food to be offered for sale;
- A map showing the route of the business and the location of proposed stops along the route. For any proposed stops within a public car parking area, a map of the parking area identifying the exact location where the mobile business intends to stop, including times of operation;
- A description of any measures to be taken to protect public amenity and safety in the vicinity of the proposed activity;
- Current vehicle registration (applicable state);
- NSW Food Authority Registration;
- Evidence of public liability insurance carried by the proponent; and
- An application fee.

2.2 Assessment Considerations and Procedures

On receiving an application for approval, Council staff will:

- Check that all relevant information has been received;
- Check the application to ensure it meets the intent and requirements of the Policy and Code;
- Request further information from the applicant if required;
- Inspect the vehicle for compliance with food premises standards;
- Assess the application having regard to:
 - the impact of the activity on the amenity of the locality,
 - the safety of pedestrians and other road or car park users,
 - the public interest, and
 - any relevant guidelines issued by the Roads and Traffic Authority and/or the Department of Local Government;
- Approve or refuse the application:
 - If Council is to refuse the application, outline the relevant reasons;
 - If Council is to approve the proposal, consider any appropriate conditions that should apply to the activity; and
- Advise the applicant of Council's decision by the issue of an approval with or without conditions or a letter of refusal with reasons.

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2.3 How Long Does an Approval Operate?

Approvals will be issued for a 12 month period. Approvals will expire at the end of the stated period, and a further approval will then be required.

2.4 Are Approvals Transferable?

Approvals are transferable if a business is sold.

2.5 How is my Existing Approval Renewed?

Operators are sent a letter advising them the current approval is due to expire, enclosing an application for a new approval for a further term. It is the responsibility of the operator to ensure a new application is submitted to Council at least thirty days prior to the expiration date. A renewal fee is required for officer assessment and liaison.

2.6 Review of Determinations

Pursuant to s100 of the Local Government Act, an applicant may request that the Council review a determination of the application within 28 days of the date of the determination.

3. Procedures for Street Stalls and Busking Approvals

3.1 Application and Submission Requirements

The following information is required from the applicant when submitting an application for an approval:

- A completed Application Form;
- A description of the activity:
 - If for street stalls, the type of activity (eg. raffle, sale of foods or goods, information distribution, etc), the purpose of the stall and the number of persons proposed to be involved in the operation of the stall;
 - If for busking, the number of persons involved, the type of entertainment and the type of instruments to be played;
- The location of the activity;
- The dates and times during which the activity will be conducted;
- Evidence of public liability insurance carried by the proponent.

3.2 Assessment Considerations and Procedures

On receiving an application for approval, Council staff will:

- Check that all relevant information has been received;

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- Check the application to ensure it meets the intent and requirements of the Policy and Code;
- Request further information from the applicant if required;
- Assess the application having regard to the provisions of this Code:
- Approve or refuse the application:
 - If Council is to refuse the application, outline the relevant reasons;
 - If Council is to approve the proposal, consider any appropriate conditions that should apply to the activity; and
- Advise the applicant of Council's decision by the issue of an approval with or without conditions or a letter of refusal with reasons.

3.3 How Long Does an Approval Operate?

3.3.1 Street Stalls

Approvals will operate for the dates or periods outlined in the approval and will generally be limited to the dates or periods identified in the application. Council will generally limit street stall approvals to periods of no more than one month to ensure access to street stall locations for a range of users. Approvals will expire at the end of the period stated in the approval, and a further approval will then be required.

3.3.2 Busking

Buskers may seek approval to busk for a single day or for periods of three months or one year. Applications for three month or one year approvals must identify the number of days intended to busk within those periods. Approvals will expire at the end of the period stated in the approval, and a further approval will then be required.

Busking on any day will be limited to a maximum of 2 hours.

3.4 Are Approvals Transferable?

No.

3.5 How is my Existing Approval Renewed?

Approvals for street stalls and busking will not be renewed. A new application will be required for further operations of street stalls or busking.

3.6 Review of Determinations

Pursuant to s100 of the Local Government Act, an applicant may request that the Council review a determination of the application within 28 days of the date of the determination.

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4. Procedures for Mobile Community Services

4.1 Application and Submission Requirements

The following information is required to be included in a letter from the proponent seeking Council's agreement to the setting up of a mobile community service:

- A description of the activity;
- The location of the activity;
- The dates and times during which the activity will be conducted; and
- Evidence of public liability insurance carried by the proponent.

4.2 Assessment Considerations and Procedures

On receiving the application, Council staff will:

- Check that all relevant information has been received;
- Check the application to ensure it meets the intent and requirements of the Policy and Code;
- Check the location of the proposed activity;
- Request further information from the applicant if required;
- Assess the application having regard to the provisions of this Code;
- Agree or disagree with the proposed activity:
 - If Council disagrees with the proposal, outline the relevant reasons;
 - If Council disagrees with the proposed location of the activity, Council will attempt to negotiate an acceptable alternative location with the proponent;
 - If Council agrees with the proposal, consider any appropriate conditions that should apply to the activity; and
- Advise the proponent of Council's decision, including any conditions and/or reasons, in writing.

4.3 How Long Does an Approval Operate?

Approvals will operate for the dates or periods outlined in the approval and will generally be limited to the dates or periods identified in the application. Approvals will expire at the end of the period stated in the approval, and a further approval will then be required.

4.4 Are Approvals Transferable?

No.

4.5 How is an Existing Approval Renewed?

Approvals for mobile community services will not be renewed. New applications will be required for further operation of mobile community services.

4.6 Review of Determinations

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Pursuant to s100 of the Local Government Act, an applicant may request that the Council review a determination of the application within 28 days of the date of the determination.

5. Operator's Responsibilities

5.1 Management

The management of activities on public roads (including the footpath) is the responsibility of the person in receipt of the approval and the business operator. To ensure appropriate management, the activity must:

- be operated in accordance with the conditions of the approval, endorsed plans and the requirements and objectives as outlined within this Code;
- ensure access for all users in and around the footpath at all times is maintained;

5.2 Insurance Requirements

The operator must hold public liability insurance. To meet Council requirements, the policy must note the Council's interest, or in cases of crown land, Council and the Minister administering the [Crown Lands Act 1989](#) and be for the amount of not less than \$20,000,000 in respect of any single occurrence.

Note: The operator must not do, or permit to be done or suffer anything to be done that would result in the cancellation or voiding of the insurance.

5.3 Other Approvals/Concurrences May Be Required

The erection of a structure or carrying out of a work on a public road (including on the footpath) requires the consent of the roads authority pursuant to Section 138 of the Roads Act, 1993. The concurrence of the Roads and Traffic Authority is required for the erection of a structure on a classified road.

6. Council Responsibilities

6.1 Maintenance

The Council will continue to manage the use of the land at all times and reserve the right to reclaim access to the footpath at any time for any purposes deemed suitable by the Council.

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6.2 Monitor Compliance with Approval

The following procedure will be followed in dealing with non-compliance with the provisions of this Code:

- a) A verbal warning will be issued by an authorised Council officer, indicating the nature of the infringement.
- b) A written warning will (then) be issued, setting out the reasons for the warning being issued, and the actions required.
- c) The approval will be revoked.

Reasonable opportunities will be provided between each step in the process, to permit the operator(s) to either comply or otherwise explain the reason for their non-compliance.

Penalties for non-compliance with the Policy and Code may include:

- On the spot fines;
- Cancellation of trading privileges;
- Impoundment of furniture; and/or
- Legal action.

7. Definitions

Dangerous Materials mean materials and implements that pose risk, hazard or uncertain outcomes for people and include flammable materials and chemicals, fire, fireworks, smoke, flairs, heated elements, knives, spears, swords, spikes and other sharp implements.

Footpath Walkway Zone means that part of the footpath extending from the building line or shop front of premises towards the street kerb for a minimum of 2 metres.

Spruiking, for the purposes of this policy, means the act of repetitively and loudly advocating the offers and bargains to be found at the street stall, with or without the use of a public address system or other form of amplification, but does not include the act of greeting passers-by to offer raffle tickets for sale or engage in a discussion with regard to the particular charity or services being advocated at the stall.

Refer to the Street Activities Policy for definitions of the specific activities referred to in this Code.

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