



## Council Policy

# Local Approvals Policy

Version 5

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## Preliminary

### 1 What is the status and purpose of this Policy?

The Local Approvals Policy (“the Policy”) is prepared and adopted under Chapter 7, Part 3 of the Local Government Act 1993 (“the Act”). The Policy is designed to outline those activities described in the Table under Section 68 of the Act, which under certain circumstances, may be carried out without approval of Council. This does not, however, prevent any person applying for approval to carry out an activity granted an exemption under the Policy. The purpose of a Local Approvals Policy is to list activities that do not need a separate approval from Council and to outline the criteria for those activities where approval is required.

### 2 How to read this Policy

The Policy is divided into three parts:

**Part 1** specifies activities for which a person is exempt from requiring an approval from the Council. If the activity you wish to undertake is listed in Part 1, please consult the relevant exemption provisions. Listed activities that are conducted in accordance with these provisions do not require Council Approval. If you cannot meet these provisions, approval will be required.

**Part 2** lists the matters that Council will consider when determining applications under the Policy. This section is intended to provide general information to applicants on the considerations that will be made by Council when assessing applications.

**Part 3** contains information regarding the application process, including any information that is required to be submitted with applications. Please consult this section for information on how to lodge an application and any supplementary documentation that may be required. Part 3 also lists any conditions associated with approvals. Upon determination, approved activities are required to be consistent with these conditions.

### 3 What are the general aims of this Policy?

- To satisfy the requirements of s158 (“Preparation of draft local policy for approvals”) of the Local Government Act 1993 (LG Act 1993);
- To specify any circumstances where council approval is not required before carrying out an activity;
- To specify criteria the council must consider in determining an application for an approval;
- To specify other matters relevant to seeking approvals from councils;
- To encourage the consolidation of Council policies in relation to approvals under the LG Act 1993;
- To assist councils in meeting their obligations under s77 of LG Act 1993 by bringing relevant matters to the notice of intending applicants.
- To provide guidance for those participating in the local approvals process in the Lake Macquarie local government area;
- To specify the criteria which Council will take into consideration in determining applications for approval under the Local Government Act 1993; and

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- To specify any other matters relating to the approvals process under the Local Government Act 1993.

### 4 When did the Policy commence?

The Policy commenced on 24 July 2017.

**Note:** Local Approvals Policy was adopted by Council on 24 July 2017.

Adoption of the Policy was publicly notified on 24 July 2017.

### 5 When will the Policy be revoked?

A local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election, unless the Council revokes it sooner.

**Note:** Automatic revocation of the Policy is provided for by section 165(4) of the Act. The next ordinary election will be held in September 2020.

### 6 Where does the Policy apply?

The Policy applies to the entire Lake Macquarie Local Government Area.

### 7 To what activities does the Policy relate?

The following table provides a summary of all activities covered by the Policy. Please consult the relevant section for specific provisions for each activity.

**Table 1 - Activities covered under the Policy**

<b>Manufactured Homes</b>
Install a manufactured home in a manufactured home estate
Install a moveable dwelling on a site that is not in a caravan park or camping ground
Installation of relocatable homes and associated structures in flood liable caravan parks
Installation of relocatable homes and associated structures of more than one storey within manufactured home estates
Install a manufactured home on a site that is not in a manufactured home estate
<b>Stormwater Drainage</b>
Carry out stormwater drainage work
<b>Management of waste</b>
Approval to transport waste, for a fee or reward, over or under a public place
Place waste in a public place
Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility
Operate a system of sewage management

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Domestic grey water diversion
Place a waste storage container on a road
<b>Community Land</b>
Sports clubs charging a fee for spectators
Busking & Street Theatre
Set up, operate or use a loudspeaker or sound amplifying
Fundraising
Street Stalls
Hiring of community land (park bookings)

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### Public Roads

Applications related to public roads

### Other Activities

Operate a public car park

Installation of a wood heater

Install or operate amusement devices

Operate a caravan park or camping ground

Operate a manufactured home estate

Mobile Vending on public roads and public land

Festivals or Community Events

Footway Dining

## 8 What definitions apply?

Expressions used in the Policy are defined in the Dictionary at the end of the Local Government Act (the "Act Dictionary"). Commonly used definitions from the Act Dictionary have been included below, as well as additional definitions used only for the purposes of this policy.

**Classified Road** means: Any of the following: a main road, a State highway, a freeway, a controlled access road, a secondary road, a tourist road, a tollway, a State work. See *Roads Act 1993*, Part 5 for further details.

**Council approval:** Approval can include under delegated (Council Officer) authority

**Dangerous materials and implements** means:

- Materials and implements that pose a risk, hazard or uncertain outcomes for people. Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flairs, 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.
- Dangerous implements include knives, spears, swords, spikes, and sharp implements of any kind that pose a threat of harm to the general public.

**Circle acts** means: Structured performances requiring the audience to stop and watch or participate in the performances that normally attract larger crowds.

**Kerb** means: A raised border of rigid material formed at the edge of a carriageway.

**Manufactured Home** means: A self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area and toilet and laundry facilities), being a dwelling:

- that comprises one or more major sections, and
- that is not a motor vehicle, trailer or other registrable vehicle within the meaning of the Road Transport Act 2013 ,

**Mobile Vending** means: all types of registered vehicles which are used for the sale of articles, on a public road or in a public place, making brief intermittent stops, and does not involve the erection of stalls, hoardings or any other physical structures.

**Moveable Dwelling** means:



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- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations for the purposes of this definition.

**Noise device** means: Any loudspeaker, loudhailer, chime, horn, siren, bell or whistle.

**Public Land** means: Any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the Crown Lands Act 1989 applies, or
- (c) a common, or
- (d) land subject to the Trustees of Schools of Arts Enabling Act 1902 , or
- (e) a regional park under the National Parks and Wildlife Act 1974.

**Public Road** means: A road that the public are entitled to use.

**Road Reserve** means: The entire right-of-way devoted to public travel, including footpaths, shoulders, verges and carriageways – the whole width between adjacent property boundaries.

**Road Users** means: Pedestrians, motorists, cyclists and motor cyclists.

**Shoulder** means: The portion of the carriageway beyond the traffic lanes and contiguous and generally flush with the surface of the pavement.

**Small Amusement Device** means: an amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as mini-Ferris wheels, battery operated cars and miniature railways but, in the case of rotating amusement devices, includes only those devices that have a maximum rotation of 14 revolutions per minute.

**Street Stall** means: The selling of articles either directly or from a stall or standing vehicle in a public street or a public place.

Examples of street stalls activities include:

- fundraising or commercial stalls in public malls or on footpaths
- sale of fruits and vegetables from barrows on a footpath
- sale of newspapers from a stand on a footpath
- sale of food, drinks, fruits or vegetables from a stall, standing vehicle, trailer or structure (e.g. kiosks) in a pedestrian mall, near a tourist area, sporting venue or the like not being on private land

**Relocatable Home** means:

- (a) a manufactured home, or
- (b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling,

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but does not include a tent, caravan or campervan or any moveable dwelling that is a vehicle of a kind that is capable of being registered within the meaning of the Road Transport Act 2013 .

**Vehicle Rest Area** means: rest areas constructed and maintained by Roads and Maritime Services.

### 9 What are the notes in the text?

Notes in the text are explanatory notes, and do not form part of the Policy. They are provided to assist in with the comprehension and readability of the policy.

### 10 What are the other relevant documents?

The following documents are related, either directly or indirectly, to the Policy:

- Local Government Act 1993 – particularly Chapter 7
- Local Government (Approvals) Regulation 1993
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- Charitable Fundraising Act 1991
- Charitable Fundraising Regulation
- Roads Act 1993
- Lake Macquarie Local Environmental Plan 2014 or its successor
- Lake Macquarie Development Control Plan 2014 or its successor
- Department of Local Government Practice Note No.14.

**Note:** Section 163 of the Act provides that the Policy is void if inconsistent with the Act or the regulations, to the extent of the inconsistency.

Where a Local Approvals Policy contains more onerous criteria than those prescribed by the Act or regulations, section 164 of the Act renders that portion of the policy void.

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# 1 Part 1: Exemptions from the Necessity to Obtain Approval

## 1.1 Explanatory Notes

This part specifies those activities that may be undertaken without obtaining the separate approval of Council under Section 68 of the Local Government Act 1993. The exemptions apply to those activities which are of a minor or common nature and which have comparatively minimal impact. **The activities must be conducted in accordance with the provisions outlined in this Policy.** If you cannot meet these provisions, approval will be required.

A person can decide to apply for approval to carry out an exempted activity specified in this part. Where appropriate, the Section 68 Activity Type has been referenced in section headings, in parentheses.

What exemptions are provided for in this policy?

### General Provisions

A person is exempt from the necessity to obtain a particular approval of the council in the circumstances specified in this part. The exemptions do not apply to consents required by any other legislation, including the Environmental Planning and Assessment Act 1979. It is a condition of exemption that the person carrying out an activity specified in this part must comply with:

- The relevant exemption criteria for the activity in question
- The relevant performance standards prescribed in the Building Code of Australia or relevant Australian Standard.

If subsequent activities involve an increase over and above the exemption circumstances shown in this part, then approval will be required for the further activity.

The exemption provisions do not apply to buildings or structures proposed to be erected over an existing easement or sewer main.

Structures or activities, which do not require approval, must be constructed of new materials *[unless otherwise specified by council in the Exemptions Schedule]*.

A person who fails to obtain prior approval, or who carries out an activity contrary to an approval or criteria for exemption, may be guilty of an offence under Section 626 and Section 627 of the Local Government Act 1993.

In relation to exempted activities, a person must give due consideration to:

- Maintaining the amenity of adjoining or neighbouring property
- Providing adequate drainage
- Eliminating potential fire risk
- Ensuring structural stability
- Providing external finishes that are easy to maintain, and don't cause nuisance or offense
- Avoiding creating circumstances that creates habitat for vermin
- Avoiding obstruction or risk to public safety
- Not creating a nuisance

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- Maintaining good public health.

**Note: The exemptions do not relate to Development Applications or consents required under any other legislation.**

**Should any doubt exist as to whether a particular activity requires approval, consult with Council officer prior to work commencing. Consultation should be undertaken early in the planning process.**

## 1.2 Structures or places of public entertainment

### 1.2.1 Install a manufactured home in a manufactured home estate (A1 Activity)

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation, 2005.

#### Clause 9 (Conditional Exemption) –

- (1) The prior approval of the council is not required for:
  - (a) the installation of a manufactured home on land within a manufactured home estate, so long as:
    - i. it is designed, constructed and installed in accordance with the relevant requirements of Division 4 of this regulation, and
    - ii. it is not occupied by any person until a certificate of completion has been issued for it, or
  - (b) the installation of an associated structure on land within a manufactured home estate, so long as it is designed, constructed and installed in accordance with the relevant requirements of Division 4 of this regulation.
- (2) An exemption provided for by this clause applies in respect of the installation of a manufactured home only if such installation is carried out by or with the consent of the holder of the approval to operate the manufactured home estate concerned in accordance with a development consent granted in accordance with the Environmental Planning and Assessment Act 1979.
- (3) An exemption provided for by this clause does not apply to the installation of a manufactured home on flood liable land if the council has notified in writing the holder of the approval to operate the manufactured home estate concerned, before that installation, that the land is flood liable land.
- (4) An exemption provided for by this clause does not apply to the installation of manufactured homes, or associated structures, of more than one storey in height.

### 1.2.2 Install a tent, caravan or campervan on a site that is not in a caravan park or camping ground (A1 Activity)

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation, 2005.

#### Clause 77 –

The prior approval of the council is not required for:

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- (a) the installation of not more than 2 caravans, campervans or tents on any land, so long as they are not occupied for more than 2 days at a time and are not occupied for more than 60 days (in total) in any single period of 12 months, or
- (b) the installation of not more than one caravan or campervan on land occupied by the owner of the caravan or campervan in connection with that owner's dwelling-house, so long as it is used for habitation only by the owner or by members of the owner's household and is maintained in a safe and healthy condition, or
- (c) the installation of a caravan or campervan on pastoral or agricultural land, so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.

### 1.2.3 Install a moveable dwelling or associated structure in caravan park or camping ground (A1 Activity)

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation, 2005

#### Clause 74 -

- (1) The prior approval of the council is not required for the installation of a relocatable home or associated structure on a dwelling site within a caravan park, so long as it is designed, constructed and installed in accordance with the relevant requirements of Division 4 of this regulation.
- (2) The prior approval of the council is not required for the installation of a caravan, tent or annexe on a dwelling site within a caravan park, so long as it is designed, constructed and installed in accordance with the relevant requirements of Division 5 of this regulation.
- (3) The prior approval of the council is not required for the installation of a tent on a campsite within a camping ground.
- (4) The prior approval of the council is not required for the installation of a campervan:
  - (a) on a dwelling site within a caravan park, or
  - (b) on a campsite within a camping ground.
- (5) An exemption provided for by this clause applies in respect of the installation of a relocatable home, annex, associated structure, caravan, campervan or tent only if such installation is carried out by or with the consent of the holder of the approval to operate the caravan park or camping ground concerned.
- (6) An exemption provided for by this clause does not apply to the installation of a relocatable home, rigid annex or associated structure on flood liable land if the council has notified in writing the holder of the approval to operate the caravan park or camping ground concerned, before that installation, that the land is flood-labile land.
- (7) An exemption provided for by this clause does not apply to the installation of a relocatable home, rigid annex or associated structure of more than one storey in height on any land within a caravan park or camping ground.

#### Clause 78 -

The prior approval of the council is not required for the installation of a caravan, campervan or tent on Crown reserves or on land that is reserved or dedicated under the Forestry Act 1916

### 1.2.4 Install a manufactured home on a site that is not in a manufactured home estate or caravan park (A1 Activity)

Where manufactured homes are permitted under the Lake Macquarie Local Environmental Plan (2014), and approval has been obtained under the provisions of the Environmental Planning & Assessment Act

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(1979) and Clause 7.23 of the Lake Macquarie Local Environmental Plan (2014), the installation of the manufactured home is exempt from requiring separate approval under the Local Government Act.

### Management of waste

Approval to transport waste, for a fee or reward, over or under a public place (C1 Activity)

Local Government (General) Regulation 2005

#### Clause 48 –

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

- (a) The transporting of waste over or under a public place for fee or reward if:
  - (i) the activity is licensed under the Protection of the Environment Operations Act 1997 , or
  - (ii) the activity is being carried out in the Sydney metropolitan area as defined in Part 3 (Interpretative provisions) of Schedule 1 to that Act, or
  - (iii) the waste is being transported through the area of the council and is not being collected or deposited in that area.

**Note** - A person who transports waste for fee or reward in circumstances that do not require a pollution control licence issued by the Environment Protection Authority must comply with the relevant requirements of the Regulations made under the Protection of the Environment Operations Act 1997 .

#### 1.2.5 Place waste in a public place (C2 Activity)

Local Government (General) Regulation 2005

#### Clause 48B –

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

- The placing of waste in a public place, if it is done in accordance with arrangements instituted by the council.

#### 1.2.6 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility (C5 Activity)

Local Government (General) Regulation 2005

#### Clause 48E -

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

1. The installation, construction or alteration of a waste treatment device, if that installation, construction or alteration is done:
  - i. under the authority of a licence in force under the Protection of the Environment Operations Act 1997, or
  - ii. in a vessel used for navigation, or
  - iii. in a motor vehicle registered under the Road Transport (Vehicle Registration) Act 1997 that is used primarily for road transport.

Operate a system of sewage management (within the meaning of section 68A) (C6 Activity)



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Local Government (General) Regulation 2005

### Clause 48F -

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

1. So much of the operation of a system of sewage management as is limited to an action carried out:
  - i. under the authority of a licence in force under the Protection of the Environment Operations Act 1997, or
  - ii. in a vessel used for navigation, or
  - iii. in a motor vehicle registered under the Road Transport (Vehicle Registration) Act 1997 that is used primarily for road transport.

### Clause 47 -

- (1) Despite the other provisions of this Regulation, a person who purchases (or otherwise acquires) land on which any sewage management facilities are installed or constructed may operate a system of sewage management without the approval required under section 68 of the Act for the period of 3 months after the date on which the land is transferred or otherwise conveyed to the person (whether or not an approval is in force, as at that date, in relation to the operation of a system of sewage management on that land).
- (2) Further, if the person duly applies, within the period of 2 months after the date on which the land is transferred or otherwise conveyed to the person, for approval to operate the system of sewage management concerned, the person may continue to operate that system of sewage management without approval until the application is finally determined.

### 1.2.7 Domestic grey water diversion device (C6 Activity)

Local Government (General) Regulation 2005

### Clause 75A -

Domestic greywater diversion may be carried out without the prior approval of the council if:

- (a) it is carried out in accordance with the Plumbing Code of Australia, and
- (b) a sewage management facility is not installed on the premises concerned, and
- (c) the following performance standards are achieved:
  - (i) the prevention of the spread of disease by micro-organisms,
  - (ii) the prevention of the spread of foul odours,
  - (iii) the prevention of contamination of water,
  - (iv) the prevention of degradation of soil and vegetation,
  - (v) the discouragement of insects and vermin,
  - (vi) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,

the minimisation of any adverse impacts on the amenity of the premises concerned and surrounding lands.

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### 1.3 Community Land

#### 1.3.1 Sports clubs charging a fee for spectators (D1 Activity)

##### Local Criteria

Sports clubs with prior approval from council for the use of the associated sporting facility may charge a spectator fee to cover its commitments to a sporting association.

#### 1.3.2 Busking & Street Theatre (D2 and D4 Activity)

##### Local Criteria

The prior approval of council is not required busking or street theatre that complies with the following conditions:

- (1) Performers must not be within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
- (2) Must not occur in any area adjacent to an educational establishment or place of public worship
- (3) Must be located 2 metres from building facade, adjacent shops or buildings
- (4) Must be located no closer than 600mm to the back of kerb.
- (5) The activity must not obstruct or hinder the passage of pedestrians or vehicles nor create any nuisance or offensive noise.
- (6) The performance must not involve the use of dangerous materials and implements nor include drawing or marking the footpath or affixing any matter or structure to the footpath paving.
- (7) If located outside any shop must have the permission of the shop owner and adjacent shop owners.
- (8) Must not use a public address, sound system or amplified equipment.
- (9) Performers may receive voluntary donations from the audience but may not solicit funds.
- (10) Performers may only perform in one location for a maximum of 2 hours. Performers may subsequently relocate to another location that is at least 50 metres away.
- (11) Performers are not permitted when special events are in progress (unless approval given as part of the event).
- (12) Performers must not advertise goods for sale or associate themselves with such advertising in conjunction with their performance, other than recordings consisting of the performers own work.
- (13) Performers may only operate between the hours of 8am and 8pm
- (14) The activity shall incorporate appropriate risk management practices so as to avoid injury or loss.
- (15) No more than 1 performer within 50m of another performer
- (16) Circle Acts and acts involving the use of dangerous materials or implements (as defined in section 8) are not to be included in exemptions

**Note** - Council and Police have the right to remove people if they are causing a nuisance to the public (including shop owners). This includes excessively repetitive performances.

Set up, operate or use a loudspeaker or sound amplifying device (D5 Activity)

## Policy - external Local Approvals Policy

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Local Government (General) Regulation 2005

### Clause 49-

A loudspeaker or sound amplifying device may be set up, operated or used on community land without the prior approval of the council if it is done in accordance with a notice erected on the land by the council.

**Note** - Council approval is needed where no notice is erected.

## 1.4 Other Activities

### 1.4.1 Operate a public car park (F1 Activity)

Local Government (General) Regulation 2005

#### Clause 66 -

A public car park may be operated without the prior approval of the council if approval for its erection or operation has already been given by the council in connection with another approval or development consent and the car park complies with any applicable conditions of that approval or development consent.

### 1.4.2 Installation of a wood heater (F4 Activity)

Local Government (General) Regulation 2005

#### Clause 70 -

A domestic oil or solid fuel heating appliance (other than a portable appliance) may be installed without the prior approval of the council if details of the appliance are included in plans and specifications for the relevant building approved under Part 4A of the Environmental Planning and Assessment Act 1979.

#### Local Criteria

The installation of a wood heater is exempt from the need for approval provided that it complies with the following criteria:

- (1) Installation must be in accordance with:
  - (a) The Building Code of Australia (BCA),
  - (b) Relevant Australian Standards,
  - (c) NSW Office of Environment and Heritage publication Environmental Guidelines for Selecting, Installing and Operating Domestic Solid Fuel Heaters, and
  - (d) The manufacturer's specifications and its capability to meet stated emissions targets for the appliance.
- (2) The solid fuel heater is not part of a heritage item identified in an environmental planning instrument or draft environmental planning instrument.
- (3) If the building is within a Heritage Conservation Area identified in an environmental planning instrument or draft environmental planning instrument, no part of the heater flue below roof level is visible from its frontage.
- (4) Structural integrity of building is not adversely affected.
- (5) Any openings created for installation are adequately weatherproofed.
- (6) There is no more than one solid fuel heater per dwelling and it is used only for domestic purposes.

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### 1.4.3 Install or operate small amusement devices (F5 Activity)

Local Government (General) Regulation 2005

#### Clause 71-

Amusement devices not required to be registered under the Work Health and Safety Act 2011 may be installed or operated without the prior approval of the council.

#### Clause 75-

A small amusement device may be installed or operated without the prior approval of the council if:

- (a) the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason, and
- (b) the device is registered under the Work Health and Safety Act 2011, and
- (c) the device:
  - (i) is to be or has been erected, and
  - (ii) is to be or is being operated, in accordance with all conditions (if any) relating to its erection or operation set out in the current certificate of registration issued for the device under that Regulation, and
- (d) there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and
- (e) in the case of a device that is to be or is installed in a building, fire egress is not obstructed, and
- (f) there is in force a contract of insurance or indemnity for the device that complies with clause 74.

**Advisory note** – for amusement devices that do not fall under the definition provided in section 8 of this Policy, assessment would be required under the Lake Macquarie Local Environmental Plan 2014.

## Policy - external Local Approvals Policy

## 2 Part 2: Criteria considered when determining applications for activities that are not exempt

### 2.1 What legislative matters must Council consider when determining an application for approval?

This Part lists the criteria Council must take into consideration in determining whether to give or refuse approval of an application under the Local Government Act 1993 or where required under s.125, 138 or 139A of the Roads Act. This part applies only when the activity is not exempt from approval under Part 1 of the Local Approvals Policy.

In order to achieve the objectives of the Policy with regards to approving activities that do not adversely impact on the amenity of residents and visitors, the following requirements outlined in s.89 of the Local Government Act will be taken into consideration in the assessment of all applications.

In determining an application, the council:

- will not approve the application if the activity or the carrying out of the activity for which approval is sought would not comply with the requirements of any relevant regulation, and
- will take into consideration any criteria in a local policy adopted by the council which are relevant to the subject-matter of the application, and
- will take into consideration the principles of Ecologically Sustainable Development.
- If no requirements are prescribed and no criteria are adopted, the council in determining an application:
- is to take into consideration, in addition to the principles of ecologically sustainable development, all matters relevant to the application, and
- is to seek to give effect to the applicant's objectives to the extent to which they are compatible with the public interest.

In considering the public interest, the matters the council is to consider include:

- protection of the environment, and
- protection of public health, safety and convenience, and
- any items of cultural and heritage significance which might be affected.

The following sections indicate which clauses and relevant matters that are to be considered when determining an application to ensure that the objectives of the Local Approvals Policy are achieved. Where appropriate, the Section 68 Activity Type has been referenced in section headings, in parentheses.

**For information about the application process, including information required to be submitted with applications, please refer to Part 3 - Application Processes and Other Matters Relating to Approvals.**

## Policy - external Local Approvals Policy

### 2.2 Structures or places of public entertainment

#### 2.2.1 Installation of relocatable homes and associated structures in flood liable caravan parks (A1 Activity)

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005

##### Clause 75 -

- (1) In deciding whether or not to approve the installation of a relocatable home, rigid annexe or associated structure on flood liable land in a caravan park or camping ground, the council must have regard to the principles contained in the Floodplain Development Manual.
- (2) Any approval to install a relocatable home or associated structure on flood liable land will require that the relocatable home and associated structure is designed, constructed and installed in accordance with the relevant requirements of Division 4.
- (3) Any approval to install a rigid annexe on flood liable land will require the rigid annexe to be designed, constructed and installed in accordance with the relevant requirements of Division 5.

**Note** - The council may also impose conditions on the grant of an approval under section 94 of the Act.

Installation of relocatable homes and associated structures of more than one storey (A1 Activity):

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005

##### Clause 76 -

In deciding whether to approve the installation in a caravan park or camping ground of a relocatable home, rigid annexe or associated structure having more than one storey, the council is to have regard to the likely impact on the amenity of the occupiers of any adjoining relocatable home and the amenity of the occupiers of land adjoining that caravan park or camping ground.

### 2.3 Water supply, sewerage and storm water drainage work

#### 2.3.1 Carry out stormwater drainage work (B5 Activity)

Local Government (General) Regulation 2005

##### Clause 15 -

In determining an application for the purposes of section 68 of the Act for an approval to do any of the activities to which this clause applies, the council must have regard to the following considerations:

- (a) the protection and promotion of public health,
- (b) the protection of the environment,
- (c) the safety of its employees,
- (d) the safeguarding of its assets,
- (e) any other matter that it considers to be relevant in the circumstances.

Part 2 of Schedule 1 of the Local Government (General) Regulation 2005 specifies mandatory standards for storm water drainage work, including that such works must comply with the New South Wales Code of Practice – Plumbing and Drainage.



### 2.4 Management of waste

#### 2.4.1 Place a waste storage container on a road (C3 Activity)

Local Government (General) Regulation 2005

##### Clause 27 -

In determining an application for approval to place on a road a building waste storage container, the council is to take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to the council from time to time by Roads and Maritime Services.

#### 2.4.2 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility (C5 Activity)

Local Government (General) Regulation 2005

##### Clause 29 -

- (1) In determining an application for approval to install, construct or alter a sewage management facility, the council must take into consideration the matters specified in clause 29.
- (2) Environment and health protection matters The council must consider whether the proposed sewage management facility (or the proposed sewage management facility as altered) and any related effluent application area will make appropriate provision for the following:
  - (a) preventing the spread of disease by micro-organisms,
  - (b) preventing the spread of foul odours,
  - (c) preventing contamination of water,
  - (d) preventing degradation of soil and vegetation,
  - (e) discouraging insects and vermin,
  - (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
  - (g) the re-use of resources (including nutrients, organic matter and water),
  - (h) the minimisation of any adverse impacts on the amenity of the land on which it is installed or constructed and other land in the vicinity of that land.
- (3) Guidelines and directions The council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the matters referred to in subclause (2).

Council will also consider the availability of any reticulated sewage infrastructure when considering applications for on-site wastewater devices. Generally, applications for on-site wastewater devices will not be approved in areas where connection to an existing sewage network is available.

#### Operate a system of sewage management (within the meaning of section 68A) (C6 Activity)

Local Government (General) Regulation 2005

## Policy - external Local Approvals Policy

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### Clause 43 -

In determining an application for approval to operate a system of sewage management, the council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the environment and health protection matters referred to in clause 29 (2).

### Clause 44 -

- (1) Any approval to operate a system of sewage management will require the operation to achieve the following performance standards:
  - (a) the prevention of the spread of disease by micro-organisms,
  - (b) the prevention of the spread of foul odours,
  - (c) the prevention of contamination of water,
  - (d) the prevention of degradation of soil and vegetation,
  - (e) the discouragement of insects and vermin,
  - (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
  - (g) the minimisation of any adverse impacts on the amenity of the premises and surrounding lands,
  - (h) if appropriate, provision for the re-use of resources (including nutrients, organic matter and water).
- (3) Failure to comply with subclause (1) is not a breach of that performance standard if the failure was due to circumstances beyond the control of the person operating the system of sewage management (such as a fire, flood, storm, earthquake, explosion, accident, epidemic or warlike action).
- (4) A system of sewage management will also be required to be operated:
  - (a) in accordance with the relevant operating specifications and procedures (if any) for the sewage management facilities used for the purpose, and
  - (b) so as to allow the removal of any treated sewage (and any by-product of any sewage) in a safe and sanitary manner.

## 2.5 Community Land

### 2.5.1 Fundraising on Public Land or Public Roads (D1 Activity)

#### Local Considerations

In determining applications for fundraising, Council shall take into account the following considerations:

- (1) Fundraising may only be conducted by organisations which have been authorised by the Office of Liquor, Gaming & Racing
- (2) Council reserves the right to refuse bookings for fundraising where multiple applications exist for a similar area and time
- (3) The intended location, extent and duration of any fundraising activities will be assessed to minimize adverse public and commercial impacts

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### 2.5.2 Street Stalls on Public Land or Public Roads (D1 Activity)

#### Local Considerations

In determining applications for street stalls, Council shall take into account the following considerations:

- (1) Council will assess street stall and stationary vehicle applications with reference to the Local Government Act 1993, Roads Act 1993 and associated regulations.
- (2) Council will ensure that commercial businesses are not disadvantaged by the occupation of street stalls or stationary vehicle vendors.
- (3) Council will ensure equitable allocation of available sites between requesting organisations.
- (4) Council will ensure the safety and preservation of the amenity for all users of malls, roadways and commercial areas used for street stalls and will provide reasonable access in these areas to maintain public safety and an aesthetic appearance.
- (5) Street stalls and mall occupation is limited to temporary use at designated sites and attracting pedestrian traffic only.
- (6) This Policy will not deal with requests for permanent street stalls or larger scale markets that attract vehicle traffic and have a greater public safety risk.
- (7) Street stalls in malls or on footpaths, except as permitted within Council's designated mall areas, may only be conducted by community based or not for profit organisations.
- (8) No site is booked exclusively by any particular group where there are other requests.
- (9) Stalls that intend to operate in vehicle rest areas require concurrent approval from Roads and Maritime Services (RMS). Evidence of approval from RMS needs to be presented before Council can determine any applications of this nature. Please consult the RMS Corporate Policy for Mobile Vending in Rest Areas for more information.
- (10) For stalls that intend to distribute food and / or beverages, the food-vending stall must have had a satisfactory food safety inspection carried out by the relevant council within the current financial year. The relevant council refers to the local government area in which the food vending business is based.

**Note** – Stalls that intend to fundraise will also be subject to the considerations listed in section 2.5.1 of this Policy (Fundraising on Public Land or Public Roads).

### 2.5.3 Hiring of community land (park bookings) (D1 Activity)

Council will assess applications for park bookings in accordance with:

- (1) The nature and scale of the activity or function being undertaken
- (2) Whether any amusement devices or marquees will be erected as part of the activity

## 2.6 Public Roads

### 2.6.1 Applications related to public roads (E1 & E2 Activities)

This section relates only to those activities on public roads as stipulated in section 68 of the Local Government Act, being activities that:

- (1) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

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- (2) 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

Local Government (General) Regulation 2005

### Clause 50 -

In determining an application for an approval under Part E of the Table to section 68 of the Act the council must take into account:

- (a) the provisions of the Roads Act 1993 , and
- (b) any relevant standards and policies of public authorities applying to the use of the road

## 2.7 Other Activities

### 2.7.1 Operate a caravan park or camping ground (F2 Activity)

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

### Clause 71 -

- (1) The council must not grant an approval to operate a caravan park or camping ground unless it is satisfied that it will be designed, constructed, maintained and operated:
  - (a) in accordance with the relevant requirements of Subdivisions 1–8 of Division 3, or
  - (b) in the case of a primitive camping ground, in accordance with the relevant requirements of Subdivision 9 of Division 3 of the Regulation.
- (2) In deciding whether or not the approval for a caravan park or camping ground should allow the installation of a relocatable home, rigid annexe or associated structure on flood liable land, the council must have regard to the principles contained in the Floodplain Development Manual

### Clause 73 -

- (1) Any approval to operate a caravan park or camping ground will be subject to the following conditions:
  - (a) the caravan park or camping ground must be designed, constructed, maintained and operated:
    - (i) in accordance with the relevant requirements of Subdivisions 1–8 of Division 3, or
    - (ii) in the case of a primitive camping ground, in accordance with the relevant requirements of Subdivision 9 of Division 3,
  - (b) a person must not be permitted to stay in a moveable dwelling that occupies a short-term site or camp site for a total of more than 150 days in any 12 month period, unless the moveable vehicle is a holiday van and the person is the owner of that holiday van,
  - (c) the owner of a holiday van that occupies a short-term site or camp site must not be permitted to stay in the holiday van for a total of more than 180 days in any 12 month period,
  - (d) a person must not be permitted to stay in a moveable dwelling in a primitive camping ground for a total of more than 50 days in any 12 month period.

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- (2) For the purposes of this clause, only overnight stays are to be counted in calculating the number of days a person spends in a moveable dwelling.
- (3) This clause does not apply to the operation of a caravan park or camping ground for a period of not more than 6 weeks if the caravan park or camping ground is being operated solely in connection with the use of the land for a sporting, recreational or cultural event.

Subclauses (1) (b), (c) and (d) and (2) do not apply to a resident owner, manager, operator or caretaker of the caravan park or camping ground.

### 2.7.2 Operate a manufactured home estate (F3 Activity)

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

#### Clause 6-

- (1) The council must not grant an approval to operate a manufactured home estate unless it is satisfied that the manufactured home estate will be designed, constructed, maintained and operated in accordance with the relevant requirements of Division 3.
- (2) In deciding whether or not the approval for the manufactured home estate should allow the installation of a manufactured home on flood liable land, the council must have regard to the principles contained in the Floodplain Development Manual.

### 2.7.3 Mobile Vending on public roads and public land (F7 Activity)

#### Local Considerations:

In determining applications for mobile vending, Council must take into account the following considerations:

- (1) The area(s) in which the applicant intends to conduct mobile vending activities, and its proximity to existing business, public parks, reserves and clubs.
- (2) Impacts of mobile vending with regards to safety, pedestrian and vehicular accessibility, amenity and public disturbance.
- (3) Mobile vendors that intend to operate in vehicle rest areas require concurrent approval from Roads and Maritime Services (RMS). Evidence of approval from RMS needs to be presented before Council can determine any applications of this nature. Please consult the RMS Corporate Policy for Mobile Vending in Rest Areas for more information.

For vendors that intend to distribute food and / or beverages, additional considerations apply:

- (1) The design and construction of the vehicle must comply with the NSW Food Authority's 'Guidelines for mobile food vending vehicles'.
- (2) The food vending vehicle must have had a satisfactory food safety inspection carried out by the relevant council within the current financial year. The relevant council refers to the local government area in which the mobile vending business is based.

**Note** – Applications for mobile vending under this policy relate to public roads and public land only. Vendors who intend to operate on private land should consult the relevant development standards in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

### 2.7.4 Festivals or Community Events (D2 Activity)

#### Local Considerations

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Applications for festivals or community events will be assessed in accordance with Council's Guideline for Holding Community Events. Please consult the Guideline for more information about matters Council will consider when determining applications.

### 2.7.5 Footway Dining (F7 Activity)

#### Roads Act 1993

##### Section 125 -

- (1) A council may grant an approval that allows a person who conducts a restaurant adjacent to a footway of a public road (being a public road that is vested in fee simple in the council) to use part of the footway for the purposes of the restaurant.
- (2) An approval may be granted on such conditions (including conditions as to payments in the nature of rent) as the council determines.
- (3) An approval may not be granted in respect of a footway of a classified road except with the concurrence of Roads and Maritime Services.
- (4) The term of an approval is to be such period (not exceeding 7 years) as is specified in the approval.
- (5) An approval lapses at the end of its term or, if the part of the footway the subject of the approval ceases to be used for the purposes of a restaurant, when that use ceases.

##### Section 126 -

- (1) A council:
  - (a) may authorise the holder of an approval to erect and maintain structures in, on or over any part of the footway the subject of the approval, or
  - (b) may, at the request and cost of the holder of the approval, erect and maintain any such structure.
- (2) The council may erect and maintain structures in, on or over any part of the footway the subject of an approval for the protection of public health and safety.

##### Section 127 -

While an approval is in force:

- (a) the use of the footway for the purposes of a restaurant, and
- (b) the erection and maintenance of structures on the footway in accordance with an authorisation given in respect of the approval,

are taken not to constitute a public nuisance and do not give rise to an offence against this or any other Act.

#### Local Considerations:

Applications for footway dining will be assessed in accordance with Council's Policy – Footway Dining, and associated procedures. Please consult the Policy for more information about matters Council will consider when determining applications.

Local Government (General) Regulation 2005



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### Clause 72 -

The council must not grant an application for an approval to install or operate an amusement device unless it is satisfied:

- (a) that the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason, and
- (b) that the device is registered under the Occupational Health and Safety Regulation 2001 , and
- (c) that the device is to be or has been erected in accordance with all conditions (if any) relating to its erection set out in the current certificate of registration issued for the device under that Regulation, and
- (d) that there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and
- (e) that there is in force a contract of insurance or indemnity for the device that complies with clause 74.

### 3 Part 3: Application processes and other matters relating to approvals

#### 3.1 What information does Council require when assessing applications under this policy?

The following part is intended to provide information about the processes involved in lodging an application to Council for any of the activities contained in the Policy, as well as any supplementary documentation required. Standard conditions of approval are also listed in this part, which will be attached to any issued approvals. It is a requirement that approved activities are conducted in accordance with all conditions associated with the activity in question, should approval be issued.

#### 3.2 Structures or places of public entertainment

##### 3.2.1 Installation of relocatable homes and associated structures in flood liable caravan parks (A1 Activity):

Council requires the following information when assessing applications to install relocatable homes, annexes or associated structures on flood liable land:

- Completed application form - Manufactured Homes
- Legible plans and specifications of the proposed structure that show the following:
  - (a) Site plan of the site, indicating site number and area of site in square metres.
  - (b) Location, size and area of existing and proposed structures, caravans and annexes in square metres.
  - (c) Distance of structure from the water's edge and/or adjoining installations.
  - (d) All details of construction methods, material sizes and types shall be stated (including awnings).
  - (e) Colour scheme of the proposed structures to be provided.
  - (f) Structures other than annexes are to be detachable from the caravan and annexe to allow uninhibited removal of both the caravan and annexe.
- Submit a Practising Structural Engineers Certificate stating the:
  - (a) The design is structurally sound;
  - (b) The relocatable home, rigid annexe and/or associated structures comply with any standards, codes and specifications required by the Regulation or by Ministerial specifications;
  - (c) Specifications as to the manner in which the relocatable home, rigid annexe and/or associated structure must be transported/installed and as to the nature of the footings (if any) on which it must be installed;
  - (d) Any specifications with respect to footings or tie-down systems must have regard to the design gust wind speed, soil type and other design considerations applicable to the various locations in which the annexe may be installed;
  - (e) The relocatable home, rigid annexe and/or associated structure is designed and constructed in accordance with Parts 1 and 2 of AS1170, (except that the design gust wind speed referred to in Clause 3.2 of Part 2 of that standard is not to be taken to be less than 41 metres per second);
  - (f) The materials being used to build the structure are flood compatible;

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- (g) That the building or structure can withstand the force of flowing floodwaters, including debris and buoyancy forces as appropriate or that permanent fail safe measures are incorporated in the development, to ensure the timely, orderly and safe removal of the structure; and
- (h) That the development will not increase the flood hazard or flood damage to other properties or adversely affect flood behaviour.

Approvals will be subject to the following conditions:

- (1) Site to be serviced in accordance with Part 3 of Regulation. This includes fire hose reels and fire hydrants.
- (2) Must have an adequate sewage disposal system and a separate application will be required.
- (3) Must be designed accordingly for the possible flood depths and velocities of the site. This information must be based on an acceptable flood study.
- (4) Must be constructed off site and brought in to the park in Major Sections.
- (5) Not to be occupied prior to a final inspection Council.
- (6) A compliance plate must be attached to an accessible part of a relocatable home.

### 3.2.2 Installation of relocatable homes and associated structures of more than one storey (A1 Activity):

An application for approval to install a moveable dwelling of more than one storey must be accompanied by the following:

- Completed application form - Manufactured Homes
- two copies of the plans and specifications for the moveable dwelling,
- two copies of the plans and specifications for any fences already erected or to be erected,
- two copies of the site plan of the land,
- two copies of a sketch plan of the moveable dwelling, indicating its height and proposed external configuration as installed, in relation to its site.

The plans for the moveable dwelling required by this clause must be drawn to a suitable scale and must not be less than A4 size.

The plans required by this clause must show the following:

- (a) a plan of each floor section,
- (b) a plan of each elevation,
- (c) the levels of the lowest floor and of any yard or unbuilt-on area belonging to that floor and the levels of adjacent ground,
- (d) the height, design, construction and provision for fire safety and fire resistance (if any).

If:

- (e) the plans and specifications relate to a proposal to carry out any alteration or rebuilding of an existing moveable dwelling, or
- (f) it is proposed to modify plans and specifications that have been submitted to the council,

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then both copies of the plans are to be coloured or marked to adequately distinguish the proposed alteration, rebuilding or modification.

The specification of the moveable dwelling:

- (a) must describe the construction and materials of which the moveable dwelling is to be built and the method of drainage, sewerage and water supply, and
- (b) must state whether the materials will be new or second-hand and give particulars of any second-hand materials to be used.
- (c) This clause does not apply to moveable dwellings that are vehicles of a kind that are capable of being registered within the meaning of the Road Transport Act 2013 .

### 3.3 Water supply, sewerage and storm water drainage work

#### 3.3.1 Carry out stormwater drainage work (B5 Activity)

Council requires the following information when assessing applications for stormwater drainage work:

- Completed application form – Carry Out Stormwater Drainage Work
- Written permission from the landowner of the subject site on which work is to be undertaken
- A site plan showing the proposed development and point of connection, easement pipe size (available from Council) and proposed connection pipe size.
- In circumstances where access is required from adjoining land, please provide evidence of an established easement – either a copy of the relevant 88B instrument or the Title for the subject land.

Approvals will be subject to the following conditions:

- (1) The connection hole is to be a neatly drilled or saw cut into the existing pipe.
- (2) The pipe connection is to finish flush with the inside of the existing pipe, NO intrusion.
- (3) Cement or epoxy resin to be used to the seat the new pipe to existing pipe.
- (4) The new connection is to be made above the spring line of the existing pipe, ie. top half of the pipe.
- (5) The new pipe is to be installed so that flows run with the downstream flow of the existing pipe and at an angle no greater than 60 degrees.
- (6) A pit or junction chamber is to be constructed if the connecting pipe is greater than 1/3 the diameter of the existing pipe.
- (7) A final inspection from Council's Asset Management Drainage section will be required on completion of works. Please call Council's Customer Service Centre on 49210333 to book in an inspection.

**Note** – For applications that require the establishment of private easements, independent legal advice should be obtained by the applicant prior to lodging their application.

### 3.4 Management of waste

#### 3.4.1 Place a waste storage container on a road (C3 Activity)

Council requires the following information when assessing applications for the placement of a waste storage container on a road:

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- Completed application form – Application to Place Temporary Structures on Council Land
- Outline of the proposed timeframe for the placement
- You must include a drawing or plan showing the location, type, and length of work proposed.
- Evidence of approval from the providers of affected services, e.g. Telstra, gas (if applicable)
- Certificate of Currency for public liability insurance for \$20 million noting Council as an interested party in relation to personal injury and property damage.

### 3.4.2 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility (C5 Activity)

Council requires the following information when assessing applications to install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility:

- Completed application form - Install and Operate a Waste Water Treatment Device
- Constructional details of the treatment device and where applicable effluent collection well(s) - eg. Precast concrete - submit manufacturer's plans and accreditation certificate.
- Provide detailed site plan drawn to scale 1:200 or larger. The site plan shall indicate location of disposal areas with relevant dimensions from boundaries, dwellings, water courses etc where applicable.
- Where on-site disposal of effluent is proposed, the following additional information is required:
- A site report from a suitably qualified On Site Wastewater Consultant shall be submitted in accordance with the NSW Environmental Health Protection Guidelines "On-site Sewerage Management for Single Households".
- Plans and specifications shall be submitted detailing the design of the effluent disposal system.

All plans and details shall be submitted in **TRIPLICATE**.

The applicant shall identify the type and sizing of the effluent distribution system. Specifications must include scale drawings of location and spacing of any distribution and irrigation lines, and any associated fittings including filters, flush valves, vacuum breakers and sprinklers.

### 3.4.3 Operate a system of sewage management (within the meaning of section 68A) (C6 Activity)

Council requires the following information when assessing applications to operate a system of sewage management:

- Completed application form – Application for Approval to Operate a System of Sewage Management
- Written consent from all property owners

## 3.5 Community Land

### 3.5.1 Fundraising on Public Land or Public Roads(D1 Activity)

When considering an application for Fundraising, Council requires the following information:

- Completed application form – Application to Fundraise on Public Land or Public Roads

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- A statement indicating the proposed location, times and dates of the fundraising activity
- Certificate of Currency for public liability insurance for \$20 million noting Council as an interested party in relation to personal injury and property damage.
- Evidence of current fundraising license from the Office of Liquor, Gaming and Racing

Approvals will be subject to the following conditions:

- (1) Fundraising activities must not be within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
- (2) Must not occur in any area adjacent to an educational establishment or place of public worship or in any park or reserve.
- (3) A 2.0 metre wide unobstructed section of footpath is to be maintained at all times from the building façade, adjacent shops or buildings
- (4) Must be located no closer than 600mm to the back of the kerb.
- (5) The activity must not obstruct or hinder the passage of pedestrians or vehicles
- (6) The activity must not involve marking the footpath or affixing any matter or structure to the footpath paving.
- (7) Collectors may receive voluntary donations from the audience but may not solicit funds.
- (8) The activity must not cause nuisance, offence or obstruction.
- (9) If located for any period of time outside any shop must have the permission of the shop owner and adjacent shop owners; otherwise must be roaming.
- (10) Must not include a public address system or the like.
- (11) Surrounding area is to be maintained in a clean and tidy condition and free of hazard and rubbish.
- (12) Fundraising activities must be conducted in accordance with the Charitable Fundraising Act 1991

**Note** - Fundraising activities that require the placement of tables, chairs or any other physical structures should submit an application for a 'street stall'.

### 3.5.2 Street stalls on Public Land or Public Roads (D1 Activity)

Council requires the following information when an assessing applications for streets stalls:

- Completed application form – Application for Street Stalls on Public Land or Public Roads
- Certificate of Currency for public liability insurance for \$20 million noting Council as an interested party in relation to personal injury and property damage.
- A site plan indicating the exact location of any proposed structures, including stalls, stationary vehicles, tables, chairs, signage and waste receptacles.
- Evidence of consent of the business or organisation outside which the stall is to be situated and adjacent businesses (if applicable)
- Photographs of the site on which the stall or stationary vehicle is intended to operate which indicate proximity to roadways and pedestrian access ways.
- For stalls that intend to distribute food, the following additional information is required:



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- Evidence that the food-vending stall has been subject to a food safety inspection by the relevant council within the current financial year. The relevant council refers to the local government area in which the food vending business is based.

For stalls that intend to fundraise, the following additional information is required:

- Evidence of current fundraising license from the Office of Liquor, Gaming and Racing

Approvals will be subject to the following conditions:

- (1) Limited to no more than 2 street stalls on any one day on the same footpath street frontage.
- (2) The stall shall not exceed 1.8m x 0.9m in horizontal surface measurements and should be placed in position so as not to cause obstruction to pedestrian or vehicular traffic and shall be placed as near as possible to the property boundary.
- (3) An adequate number of receptacles should be provided for the disposal of litter. Please ensure that all litter arising from the stand or stall is removed and that the footpath is kept free of litter during the period of operating the street stall or stand.
- (4) The name of the organisation must be prominently displayed on the stall, not on the footpath. No other signage is permitted
- (5) Must have the consent of the business or organisation outside which the stall is to be situated and adjacent businesses
- (6) Must be located no closer than 600mm to the back of kerb.
- (7) A 2.0 metre wide unobstructed section of footpath is to be maintained at all times from the building façade, adjacent shops or buildings
- (8) Stalls shall only operate between the hours of 8:00am and 8:00pm
- (9) A minimum of 1.2 metres is required between each stall.
- (10) Must not hinder the passage of pedestrians or vehicles or create a nuisance or objectionable noise
- (11) The immediate surrounding area is to be left in a clean and tidy condition and kept clear of hazards.

Approvals for stalls distributing food and / or drink will be subject to the following additional conditions:

- (12) The stall and its operation shall comply with the Food Act and Regulations (as amended), Food Standards Code and the NSW Food Authority's Mobile Food Vending Vehicles Guideline (where applicable).
- (13) Evidence of current registration and a satisfactory food safety inspection of the food business within the current financial year shall be kept with the on-site at all times. Operators must be able to present their license approval to an authorised Council officer or delegated authority of Council on request.

Approvals for stalls intending to fundraise will be subject to the following additional conditions:

- (14) Fundraising activities must not be within 5 metres of a bus stop, pedestrian crossing, taxi stand or intersection.
- (15) Must not occur in any area adjacent to an educational establishment or place of public worship or in any park or reserve.

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- (16) The activity must not involve marking the footpath or affixing any matter or structure to the footpath paving.
- (17) Collectors may receive voluntary donations from the audience but may not solicit funds.
- (18) The activity must not cause nuisance, offence or obstruction.
- (19) Must not include a public address system or the like.
- (20) Fundraising activities must be conducted in accordance with the Charitable Fundraising Act 1991

Approvals for stalls intending to operate in vehicle rest areas will be subject to the following additional conditions:

- (21) Vendors are required to operate in accordance with any conditions of approval from the Roads and Maritime Services, as well as the Roads and Maritime Services Corporate Policy for Mobile Vending in Rest Areas.

### 3.5.3 Hiring of community land (park bookings) (D1 Activity)

To book a park or picnic area for your function:

- Contact Council's Customer Service Centre on 4921 0333, who will take a tentative booking for you
- Remember to keep the confirmation letter and have it with you on the day of your function

## 3.6 Public Roads

### 3.6.1 Applications relating to public roads (E1 & E2 Activities)

This section relates only to those activities on public roads as stipulated in section 68 of the Local Government Act, being activities that:

1. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
2. 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

**When considering an applications relating to public roads, Council requires the following information:**

- Completed application form – *Place Temporary Structure on Council's Road Reserve*
- A drawing or plan showing the location, type, and length of work proposed.
- Certificate of Currency for public liability insurance for \$20 million noting Council as an interested party in relation to personal injury and property damage.

**Note** – Activities that encroach onto road pavement or effect service provider assets (e.g. Telstra) will need to submit additional information. Please consult Council's application form - *Place Temporary Structure on Council's Road Reserve* for more details about these requirements.

## 3.7 Other Activities

### 3.7.1 Operate a caravan park or camping ground (F2 Activity)

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When considering applications for the operation of a caravan park or camping ground, Council requires the following information:

- Completed application form – *Approval to Operate a Caravan or Camping ground*

### 3.7.2 Operate a manufactured home estate (F3 Activity)

When considering applications for the operation of manufactured home estates, Council requires the following information:

- Completed application form – *Approval to Operate a Manufactured Homes Estate*

### 3.7.3 Mobile Vending on public roads and public land (F7 Activity)

When considering an application for mobile vending, council requires the following information:

- Completed application form – *Mobile Vending on public roads or public land*
- A statement indicating the location(s) at which the proposed activity will occur
- Certificate of Currency for public liability insurance for \$20 million noting Council as an interested party in relation to personal injury and property damage.
- Copy of Vehicle Registration

For Mobile Vendors who intend to distribute food or beverages, the following additional information is required:

- Evidence that the food vending vehicle has been subject to a food safety inspection by the relevant council within the current financial year. The relevant council refers to the local government area in which the mobile vending business is based.

For Mobile Vendors who intend to operate in vehicle rest areas, the following additional information is required:

- Evidence of approval from Roads and Maritime Services to conduct vending activities in the designated rest area

**Note** – Applicants within the Lake Macquarie Local Government Area who require a food safety inspection should contact Council on 4921 0333 to arrange the inspection before lodging an application under this Policy.

### Approvals will be subject to the following conditions:

- (1) Should approval be granted under this policy, documentation of that approval shall be kept with the vehicle at all times. This documentation must indicate that the approval is consistent with the area(s) and time(s) in which the vendor is actually operating. Vendors must be able to present this documentation of approval to an authorised Council officer or delegated authority of Council on request.
- (2) No additional flashing or rotating lights, except those required under Motor Traffic legislation are permitted.
- (3) The vehicle is not permitted to operate within 100 meters of any retail outlet or of any premises selling a similar product if that outlet is open.
- (4) The vehicle is not permitted to 'set up stand' nor remain at any one selling point for more than 15 minutes without a customer. A vehicle must move a minimum of 500 metres between each selling point.

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- (5) The owner or person in charge of the vehicle shall not allow any “ noise device” to be used or operated in any public place for informing members of the public that articles are on sale from that vehicle:
  - (a) before 8.00am and after 7.00pm on any day;
  - (b) whilst the vehicle is stationary;
  - (c) for longer than 30 seconds in any period of three minutes;
  - (d) within 50 metres of schools (during school hours), hospitals and places of worship (during use on any day);
  - (e) more often than once every two hours in the same length of street;
  - (f) louder than 75dB(A) at a distance of 10 metres
- (6) The vehicle is not permitted to trade on main roads and through streets with a speed limit of greater than 50 km/hr or 80km/h where the carriageway has wide shoulders.
- (7) Vendors must not stop on a hill or bend where sight distance is limited nor located in front of driveways or entrances to properties unless the permission of the property owner has been obtained.
- (8) The vehicle is not to create a traffic hazard, obstruction or dangerous situation.
- (9) Vendors are only permitted to operate between the hours of 6:00am and 8:00pm
- (10) Litter bins are to be provided by the operator for the convenience of customers.
- (11) Wastewater is to be contained with the vehicle for later disposal to the sewerage system.
- (12) The vehicle must be removed from its location within 15 minutes of closure and the area around the vending vehicle must be left in a clean and litter free state.
- (13) Mobile vendors must not operate within 1km of any public park or reserve where permission has been granted by the council to any person, club, sporting body or association or business to sell similar or the same type of articles or goods, unless the council grants specific exemption from this requirement (i.e. for a specific community event)
- (14) Mobile vending is not permitted unless approved by Council as part of a community event at Council parks and reserves.

### **Approvals for mobile food vending will be subject to the following additional conditions:**

- (15) The vehicle and its operation shall comply with the Food Act and Regulations (as amended), Food Standards Code and the NSW Food Authority’s Mobile Food Vending Vehicles Guideline wherever applicable.
- (16) Mobile food vending vehicles are required to undergo an annual food safety inspection by the relevant Local Government Authority.
- (17) Evidence of current registration and a satisfactory food safety inspection of the mobile food vending vehicle within the current financial year shall be kept with the mobile food van at all times. Mobile Vendors must be able to present their license approval to an authorised Council officer or delegated authority of Council on request.

### **Approvals for mobile vending in vehicle rest areas will be subject to the following additional conditions:**

- (18) Vendors are required to operate in accordance with any conditions of approval from the Roads and Maritime Services, as well as the Roads and Maritime Services Corporate Policy for *Mobile Vending in Rest Areas*.

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### 3.7.4 Festivals or Community Events (D2 Activity)

The information required when applying for a festival or community event is specified in Council's application form - *Application for Community Event*. Additional details can also be found in Council's Guideline for Holding Community Events.

### 3.7.5 Footway Dining (Roads Act 1993)

When considering an application for footway dining, council requires the following information:

- Completed application form – *Footway Dining*
- An identification diagram. Diagram should indicate;
  - (a) width of access for pedestrians
  - (b) frontage of the site, size of the area proposed to be used for dining purposes
  - (c) location of proposed furniture and details of other street furnishing such as trees and details of existing obstructions eg. Rubbish receptacles, hydrants etc.
- A brochure/photograph of the type of furniture proposed to be used (tables and chairs situated on the footway are to be of a smart design and not of plastic construction).
- Certificate of Currency for public liability for \$20 million noting Council as an interested party in relation to personal injury and property damage with activities on a public footway and roadway

#### Approvals will be subject to the following conditions:

- (1) The term of the approval may not exceed 5 years.
- (2) The applicant shall pay to the Council an annual charge per chair, as specified in Council's Fees & Charges Schedule for that year, payable in advance on each anniversary date of the approval.
- (3) A clear path for pedestrians, including pedestrians with a disability, must be provided adjacent to the restaurant and be two (2) meters in width. This must be clear of obstacles at all times.
- (4) The number of tables permitted within the approved part will be (specified by Council).
- (5) Those tables situated on the footway without an approval will be deemed unauthorised. The applicant will be required to remove that table in accordance with Section 107 of the Roads Act 1993. Failure to comply with Section 107 will result in further action against the applicant, as provided the Roads Act 1993.
- (6) The applicant shall supply and maintain all outdoor furniture at his/her/their/its own cost. Those tables and chairs situated on the footway are to be of a smart design and not of plastic construction.
- (7) The hours of operation for the approved area shall be (subject to Council approval).
- (8) The applicant shall at all times observe and comply with the reasonable requirements of the law, the Council; an Inspector or other Officer authorised by Council from time to time in respect of such tables, chairs or equipment, or use of the footway.
- (9) The applicant will not sell or serve or permit to be sold or served any alcoholic or intoxicating liquor in or from the approved area except where an appropriate liquor licence has been obtained from the relevant Licensing Authority and is current in respect of the adjoining premises.
- (10) Food must not be prepared or stored on the approved area and all food preparation and storage must take place inside the restaurant (except with prior approval of Council)



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- (11) The applicant shall conduct the footway dining area only in conjunction with its adjoining restaurant and shall remove all outdoor furniture that is not permanently fastened to the footway from the approved part upon completion of trading daily.
- (12) The applicant shall maintain the approved area in a clean and tidy condition at all times.
- (13) Where:
  - (a) Where the Applicant/s decide/s to allow dogs in their outdoor dining area, the following conditions must be complied with:
    - i. the outdoor dining area must not be enclosed and must be able to be entered by the public without passing through an enclosed area;
    - ii. dogs must be on a leash at all times;
    - iii. dogs must be on the ground at all times;
    - iv. dogs can be provided with drink but not food; and
    - v. dangerous and restricted dogs are prohibited.
  - (b) The following conditions apply to outdoor dining areas that are located in Council designated off-leash areas:
    - i. dogs are allowed off-leash in these areas but must be under effective control;
    - ii. dogs can be provided with food as long as the food is on the ground and not provided using apparatus that is used for human food consumption;
    - iii. dogs can sit on a person's lap, but must not be allowed to sit on any table or chairs or make contact with other apparatus provided for the consumption of food by humans.
  - (c) The Applicant/s must ensure that dog owners continue to be responsible for properly controlling their dogs in these off-leash areas. Dog owners are responsible for the dog's behaviour and for ensuring that it does not impact on the welfare of other people and/or patrons of the restaurant, dogs and animals in on or near the outdoor dining areas.
- (14) The Applicant/s will be responsible for informing their patrons of the conditions for having dogs in food consumption areas and should monitor compliance with these requirements or they will risk complaints being made.
- (15) The applicant shall not make any alterations to the approved area or erect any structures including advertising structures, signs and awnings without the prior approval of Council.
- (16) The applicant shall ensure that the use of the approved area shall not give rise to offensive noise as defined in the Noise Control Act 1975.
- (17) No entertainment shall be permitted within the approved area without the approval of Council.
- (18)
  - (a) The applicant may be required to carry out improvements to the footway at their expense, to the requirements of Council's Asset Management Department, where the surface of the footway in the approved area is damaged cracked or has deteriorated, or in the opinion of Council is unsuitable for a dining area.
  - (b) If the proposed outdoor area is to be near angle parking, then suitable wheel stops have to be installed, at the Applicants costs, into the parking spaces to inhibit vehicle inadvertently mounting the footpath while entering the car space.



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- (c) That concrete blocks installed at the end of the carpark in front of the proposed tables are maintained and remain for the term of the licence.
- (19) The applicant shall grant statutory authorities access to the approved area whenever required.
- (20) The applicant is required to produce to the Council within fourteen (14) days of approval, a public liability insurance policy with an insurer approved by the Council, covering the respective rights of the applicant and the Council in respect of liability to the public for the minimum amount of \$20,000,000.00 in respect of the approved area. Evidence of adequate insurance is required on each anniversary date of the approval.
- (21) The approval may be revoked by the Council if:
- i. The applicant has breached a term or provision of the approval;
  - ii. The conduct of the restaurant on the approved area causes undue inconvenience or disruption to pedestrian or vehicular traffic or to the occupiers of adjoining or adjacent premises;
  - iii. Any applicant requires revocation; or
  - iv. The restaurant ceases to be operated by the applicant.
- (22) A notice of revocation shall be in writing and forwarded to the applicant at his/her/their/its stated address shown in the application.
- (23) No compensation or damages shall be payable by the Council to the applicant or any other person or corporation in the event that revocation of the approval occurs.
- (24) The approval lapses at the end of its term, or, if the restaurant adjoining the footway (the subject of the approval) ceases to be used for the purposes of a restaurant, when that use ceases.
- (25) The provisions of the Roads Act 1993 and any other law prevail to the extent of any inconsistency between those and the agreement.

### 3.7.6 Install and Operate a Small Amusement Device (F5 Activity)

When considering applications to install or operate an amusement device, council requires the following information:

- Completed application form – *Install and Operate an Amusement Device*
- Site plan showing the proposing location of the amusement device/s
- A copy of the Workcover NSW registration certificate
- Certificate of Currency for public liability insurance for \$20 million noting Council as an interested party in relation to personal injury and property damage

#### Approvals will be subject to the following conditions:

It is a condition of an approval to install or operate an amusement device, that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with the following standards:

- (1) the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason,
- (2) the device is registered under the Occupational Health and Safety Regulation 2001 ,

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- (3) all conditions (if any) subject to which the device is so registered and all relevant requirements of that Regulation are complied with,
- (4) the device is installed (including erected) and operated in a safe manner.

### 3.8 Other Matters Relating to Approvals

#### 3.8.1 Lodgment of an application

Council has prepared a specific form and/or guide for most applications or bookings, designed to assist in the lodgment of the application. Depending on the type of work or activity, fees may apply and where these are required they must be paid at the time of lodgment. Please refer to the Local Approvals Policy Application Forms on Council's website for application requirements.

An application may be rejected within seven days of receipt if it is not clear as to the approval sought or the application is not easily legible. Fees if applicable are refunded. Copies of Lake Macquarie's Local Approval Application forms may be found at <http://www.lakemac.com.au/>.

Applications are to be lodged at Council's Customer Service Centre. Meetings may be requested with Council's Duty Planners to assist with the lodgement process. Following initial review, the application will be administered to the relevant department for approval or rejection.

#### 3.8.2 Assessment of an application

In addressing the more complex applications, additional information may be needed. Where this is the case, Council will contact the applicant within 21 days of receipt of an application. Applications can be amended by the applicant prior to determination provided that the variation is minor.

#### 3.8.3 Determination

Once determined a notice will be issued advising whether the application has been approved or refused.

The period of approval will vary depending on the type of activity or work undertaken. If works have not commenced or where the activity is not held during the nominated time then the approval may lapse.

In such cases, and depending on the circumstances, an applicant can seek to lodge a new application or alternatively request to modify/extend an existing application.

#### 3.8.4 Review of determination

A determination can be reviewed under s.100 of the Local Government Act. A request to review must justify the reasons for review and be made in writing within 28 days of Council's determination. Fees apply. The determination of a review is final.

#### 3.8.5 Fees and Charges

Fees for activities listed in Part 2, other than for building work, are indicated in the Schedule of Fees and Charges adopted by Council for the relevant financial year.

#### 3.8.6 Refunds

Limited refunds may apply depending on the level of assessment associated with the application. Cancellation fees also apply for some bookings.

#### 3.8.7 Record of approvals

A record of approvals is required to be kept under s.113 of the Local Government Act. This record is available to the public.

#### 3.8.8 Enforcement action

An approval may be revoked or modified in any of the following circumstances:

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- (a) if the approval was obtained by fraud, misrepresentation or concealment of facts;
- (b) for any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused the council not to have granted the approval (or not to have granted in the same terms);
- (c) for any failure to comply with a requirement made by or under this Act relating to the subject of the approval;
- (d) For any failure to comply with a condition of the approval

**Note** – Approvals/consent may be required for certain other activities under the provision of separate legislation, particularly in regard to the erection of other buildings which is controlled by the provisions of the Environmental Planning and Assessment Act 1979.

Any application involving the preparation of food, the operation of a temporary food premise must comply with the Food Act 2003 (NSW).

### 3.8.9 Review of the Local Approvals Policy

To satisfy the provisions of the Local Government Act 1993, the Policy must be reviewed and a revised version adopted within 12 months of a new Council being elected.

The following flowchart summarises how activity applications are processed by Lake Macquarie City Council and how this Local Approvals Policy relates to such applications.

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# Controlled Document Information

### Authorisation Details

<b>Folder No:</b>	F2015/00514/10	<b>TRIM Record No:</b>	D10015617
<b>Audience:</b>	External - All staff and the general public		
<b>Department:</b>	Integrated Planning	<b>Officer:</b>	Business Assistant to Manager - Annette Young
<b>Key focus area(s):</b>	Legislative requirements		
<b>Review Timeframe:</b> Max < 4 years	1 year	<b>Next Scheduled Review Date:</b>	2 March 2022
<b>Authorisation:</b>	Council		
<b>Authorisation - Council Adoption Date:</b>	24 July 2017		

### Related Document Information, Standards & References

<b>Related Legislation:</b>	Local Government Act 1993	Governing Legislation for this Policy
<b>Related Policies:</b>	N/A	N/A
<b>Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:</b>	Local Approvals Policy Implementation Procedure Amending Development Control Plan Procedure	N/A
<b>Standards, COP's &amp; Other References</b>	N/A	N/A

### Definitions

Term / Abbreviation	Definition
The Policy	Local Approvals Policy
The Act	Local Government Act 1993

### Consultation (update for each version created)

<b>Key Departments, Teams, Positions, Meetings:</b>	Development Assessment & Certification Environmental Regulation and Compliance Asset Management Community Partnerships Property and Business Development
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### Version History

Version No	Date Changed	Modified By	Details and Comments
Original	September 2014	Integrated Planning	Policy created
Version 1	December 2015	Integrated Planning	Post exhibition significant amendments

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Version 2	November 2016	Integrated Planning	No changes
Version 3	February 2017	Integrated Planning	Minor changes to activity classifications and regulations for street stalls
Version 4	October 2017	Integrated Planning	Formatting changes only
Version 5	February 2021	Integrated Planning	New version created with no changes as Version 4 was marked incorrectly as WHS. This was being shown as an overdue KPI in monthly reporting. Making Version 5 a non WHS document will correct this and allow for accurate reporting. Version 5 will be reviewed within the next twelve months.