



GLEN INNES SEVERN COUNCIL

Local Approvals Policy

RESOLUTION NUMBER: 25.03/17 14.08/15 21.11/12	MEETING: 23 March 2017 27 August 2015 22 November 2012
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INTRODUCTION

Glen Innes Severn Council has prepared this Policy and its related Local Approvals Policy (Guidelines and Procedures) document to clarify circumstances where an approval must be obtained from Council prior to carrying out activities listed in the Table to Section 68 of the *Local Government Act 1993*.

In this Policy, '**Approval**' means approval of an activity listed in the abovementioned Table and should not be confused with any requirement for a '**Development Consent**' issued in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

AIMS OF THE POLICY

The objectives of Council's Local Approvals Policy are:

1. To provide a framework and an approach to approvals with clear guidelines, uniformity and consistency, so that members of the Community know what is expected, and to assist Council in the execution of its statutory responsibilities.
2. To reflect Community interest and input and be customer responsive, through the provision of a high level of service to Council's client groups and the Community.
3. To make Council's policies and requirements for approvals readily accessible and understandable to the public.

The purpose of the Local Approval Policy is:

- 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 *Local Government Act 1993*; and
- to assist Councils in meeting their obligations under Section 77 of *Local Government Act 1993* by bringing relevant matters to the notice of intending applicants.

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LEGISLATIVE FRAMEWORK

This Policy has been prepared and adopted under Chapter 7, Part 3 of the *Local Government Act 1993*. This Act provides the legal framework for this policy.

In accordance with Section 158 of the Act, the Policy contains three major parts, detailed in the related Local Approvals Policy (Guidelines and Procedures) document, which address the following matters:

Part 1: Exemptions

The circumstances in which a person would be exempted from the necessity to obtain an approval from Council.

Part 2: Assessment Criteria for Approvals

The criteria Council must consider when determining whether or not to grant approval to a particular activity.

Part 3: Other Matters

Is to specify other matters relating to approvals, such as requests for exemption from application fees and Council's procedures for review of applications.

APPLICABILITY

The Policy applies to the whole of the Glen Innes Severn Council Local Government Area unless otherwise specified. In certain circumstances this may alter the existing arrangements of what activities do and what activities do not need approval in both towns and rural areas.

USING THIS DOCUMENT

This Guidelines and Procedures document relates to the activities listed in the Table to Section 68 of the *Local Government Act 1993*. A list of these activities may be found in Schedule 1 at the end of this document.

Part 1: Exemptions

This part specifies instances where some activities may be carried out without the need to obtain approval of Council.

Where criteria for an exemption are not specified for a proposed activity **or** an activity proposed would not strictly conform to the exemption criteria, an application for approval is required to be submitted and approved **prior to** the activity being commenced.

It is strongly recommended that applicants discuss their proposal with Council staff if they are in any doubt about the exemption status of their proposal.

Part 2: Assessment Criteria for Approvals

If a proposed activity does not fit the criteria for an exemption or is not in the list of exempted activities, it will need Council approval. There are also activities for which no exemptions from approval exist, and approval must always be obtained.

This part details the criteria Council must take into consideration in determining whether to give or refuse approval of an application to conduct an activity.

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Part 3: Other Matters

This part covers procedures for requesting exemption from application fees and Council's procedures for review of applications and of this Policy.

Schedules

Schedule One specifies activities requiring prior approval of Glen Innes Severn Council.

Schedule Two to this document details the criteria that need to be met for activities to qualify for exemption from approval. They are set out so they may be used as a checklist by applicants to help them determine if their proposed activity is exempt or not.

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

RELATED DOCUMENTS

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

- *Local Government Act 1993* – particularly Chapter 7;
- *Local Government (General) Regulation 2005*;
- *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005*;
- The National Construction Code (Building Code of Australia);
- *Roads Act 1993*;
- *Road Transport Act 2013*;
- Road Rules 2014.

They should be consulted for further information wherever they are referenced.

Note: Section 163 of the Act requires that the Policy (and its attendant Guidelines) is void to the extent that it is inconsistent with the Act or the regulations.

Section 164 of the Act requires that the policy cannot impose a more onerous criterion than does the Act or regulations in relation to a specified aspect of an activity.

DEFINITIONS

Expressions used in this Policy are defined in the Dictionary at the end of the *Local Government Act 1993* (the 'Act Dictionary').

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PART 1 – EXEMPTIONS

1.1 General Provisions

The *Local Government Act 1993* requires approval to be granted to a range of activities before they may be undertaken. Attachment 1 to this Guideline lists the range of activities, under Section 68 of the Act, that require approval.

The *Local Government Act* and *Regulation* provide legislative exemptions from the need to obtain approval for certain activities in the circumstances specified in this Part and set out in Schedule 2 under Legislative Exemptions.

This Policy also provides for further exemptions from approval for additional activities set out in Schedule 2 under Local Exemptions.

It is a condition of any exemption that the carrying out of an activity for which an exemption is provided must observe and comply with the relevant circumstances specified in this Part and any circumstances or requirements listed in Schedule 2.

This Part does not exempt a person from the need to obtain approval to carry out an activity as described in Section 68 of the *Local Government Act 1993* **unless** that activity is listed in Schedule 2 **or** the activity is one that the Council is taken to have granted by virtue of the issue of Development Consent under the *Environmental Planning and Assessment Act, 1979*.

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

- (i) The amenity of adjoining or neighbouring property;
- (ii) The provision of adequate drainage;
- (iii) Any potential fire risk;
- (iv) Structural stability;
- (v) External finishes;
- (vi) Avoid creating a harbourage for vermin;
- (vii) Avoid creating an obstruction or risk to public safety;
- (viii) Not create a nuisance;
- (ix) Public health.

Whilst a person may carry out an exempted activity specified in Schedule 2 without requiring approval of Council, this does not prevent a person from applying for approval to carry out an exempted activity specified in this Part.

1.2 Limit of Activities Carried Out By Exemption

If subsequent activities involve an increase over and above the stated exemption conditions then approval will be required for the further activity.

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1.3 Areas in which Exemptions Apply

Options listed in Schedule 2 apply to all land within the jurisdiction of the Glen Innes Severn Local Government Area, unless otherwise specified.

PART 2 – CRITERIA COUNCIL MUST CONSIDER WHEN DETERMINING APPLICATIONS

2.1 General matters for Consideration

The matters that Council must consider in determining whether to approve applications are:

- The matters prescribed in Section 89 of the *Local Government Act 1993* and the regulations to the *Local Government Act*;
- Any relevant adopted Council Policy, performance standard or criteria; and
- Principles of ecologically sustainable development.

2.2 Council's Development Control Plan and Policies

The Glen Innes Severn Council Development Control Plan 2014 and additional Policies listed hereunder are included as criteria for the assessment of applications where relevant, unless the activity is exempted under Schedule 2 of this Policy.

Council Policies

- Local Orders Policy No. 1 Guidelines for the Keeping of Animals for Domestic Purposes;
- On-site Sewerage Management Strategy.

Note: Any policy, which is not consistent with or is more onerous than the Act or Regulations, is void in respect of that inconsistency or more onerous provision (LGA S.163 and S.164).

2.3 Specific Criteria to be Met

Specific criteria include:

- Approvals relating to Management of Waste Clause 31 and 36 of *Local Government (General) Regulation 2005*;
- Approval to Operate a System of Sewage Management Clause 44 of *Local Government (General) Regulation 2005*;
- Approvals relating to Activities on Public Roads Clause 51 of *Local Government (General) Regulation 2005*;
- Approval to Operate a Public Carpark Clause 55 of *Local Government (General) Regulation 2005*;
- Approval to Install a Domestic Oil or Solid Fuel Heating Appliance Clause 68 of *Local Government (General) Regulation 2005*;
- Approvals to Install or Operate an Amusement Device Clause 73 of *Local Government (General) Regulation 2005*.

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2.4 Council Criteria to be considered in approving a moveable dwelling or associated structure on land for temporary occupation while constructing a dwelling. (S68 – A1)

Approval may be given to occupy a caravan, mobile home or relocatable dwelling on land, subject to the following conditions:

1. **Development Consent:** A development application and construction certificate (or complying development certificate) to erect a permanent dwelling, has been submitted and approved by Council.
2. **Application:** An application under Section 68 of the *Local Government Act 1993*, must be submitted and approved by Council.
3. **Options:** Options available for temporary accommodation are a caravan, mobile home or relocatable dwelling. A shed will not be approved as temporary accommodation under any circumstances.

Facilities Required:

Amenities

An application to occupy temporary accommodation will only be approved if the following amenities are provided:

- a kitchen sink and facilities for the preparation and cooking of food; and
- a bath or shower; and
- clothes washing facilities, comprising at least one washtub and space in the same room for a washing machine; and
- a closet pan and washbasin.

If any of the above facilities are detached from the main building or caravan, they must be set aside for the exclusive use of the occupants of the building.

Water Supply

An adequate water supply must be provided and may be either:

- Reticulated town water supply;
- 22,500 litre rainwater tank fitted with a pressure pump and plumbed to the facilities in the accommodation.

On-site Sewage Management

All sewage effluent produced must be disposed of in an approved manner and may include:

- Connection to Council's sewerage system;
- An approved on-site sewerage system such as septic tank or aerated waste treatment system. A pit toilet will not be approved.

Note: An application and approval under Section 68 of the *Local Government Act 1993* will be required prior to the installation of any plumbing or sanitary drainage facilities.

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Bushfire Prone Areas

Any approval for temporary accommodation will require all bushfire protection requirements for a permanent dwelling to be met by the temporary accommodation.

These will include the temporary accommodation meeting the required BAL construction requirements, asset protection zones to be established, access roads to be completed and required water supplies to be established.

Commencement of Occupation: Occupation of any temporary accommodation may only commence after:

- the approved water supply has been connected to the accommodation by a licensed plumber and inspected by Council;
- the approved On-Site Sewerage management system has been installed and connected to the accommodation by a licensed plumber and inspected by Council;
- The footings or concrete slab for the approved dwelling have been completed, or documentary evidence of commitment to imminent commencement (such as a valid contract with a builder or paid booking for concrete delivery) is submitted.

Period of Occupation: The maximum period for the occupation of temporary accommodation is twelve (12) months. Extension to this time will be subject to a written request and the merit of individual cases.

2.5 Council criteria to be considered in approving a standing vehicle for the purpose of selling any article in a public place (S68 – F7)

In considering applications for approval to offer goods or articles for sale from a standing vehicle on a public road (includes the footpath) or to expose (whether for sale or otherwise) any article so as to overhang any part of the footpath or road, or outside a shop window, doorway or from an awning overhanging that road, Council shall have regard to the Guidelines for Street Vending Control published by the Roads and Traffic Authority in conjunction with the Department of Local Government, see attached Schedule Three (3).

2.6 Council criteria to be considered when approving the erection of a hoarding or scaffold (S68-E2)

In all cases where construction, demolition, building maintenance or excavation is being carried out, and the building or excavation is within 3.5 metres of the street alignment, a protective/security fence or hoarding at least 2100mm high shall be constructed to form a barrier between the works and adjacent land.

In cases where buildings that are within 3.5 metres of the street alignment are over 6 metres in height above the footpath, an overhead protective structure hoarding shall be constructed to prevent danger from falling objects.

Overhead protective structure hoardings shall also be constructed where material is to be hoisted over a public way, or any other situation where a danger is posed by falling objects.

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Hoardings shall be constructed in accordance with the design criteria and specification for hoardings as set down by the Work Cover Authority. Any alternatives to approved methods are to be designed to the applicable Codes, including AS 1170 – 1989, and approval obtained from Work Cover prior to construction.

Protective/security fence hoardings shall be allowed to encroach upon the public way, up to a maximum distance of 1.2 metres from the street alignment/property boundary, or of the footway width, whichever is the lesser, however, a greater distance from the street alignment/property boundary may be approved at the discretion of Council.

- a) Hoardings shall remain in place until work is completed.
- b) Suitable lighting is to be provided and maintained for the illumination of the footpath and hoarding from sunset to sunrise, so as to reduce hazard to persons using the footpath or surroundings.
- c) No advertisements of any kind shall be affixed to the hoardings, excepting a board not exceeding 2.4 metres x 1.8 metres, on which may be shown the architect's and builder's names, particulars in respect of the subject building, and notices in respect of the existing or future occupancies of the building.
- d) Hydrants or other service access points shall not be covered in any way, and access to same must be kept clear at all times.
- e) Uprights shall be tenoned into soleplates and shall not be inserted into the roadway or footpath surface.
- f) The hoarding shall be constructed in a good and workmanlike manner, and kept in a state of good and safe repair at all times. Any roofed structure placed on top of the hoarding shall slope toward the building site, the hoarding itself is to be made waterproof so as to enable all runoff water to be carried onto the building site, or disposed of so as not to cause nuisance to persons using the footpath.
- g) Entry points to the site are to be kept clear of debris, loose materials and obstructions at all times, and are to be provided with gates which open inwards in all cases. Vertical posts at entry points shall be effectively braced and reinforced to prevent dislodgment by reason of collision with vehicles.
- h) Kerb and gutter shall not be cut or damaged in any way and wheel or track type vehicles shall not cross over the kerb unless it has been properly protected against damage or interference.
- i) A traffic control plan is to be provided where pedestrians are required to utilise the street or road for access.
- j) The applicant shall also secure a public risk policy to a minimum limit of liability of \$20 million in favour of the Council to indemnify Council in the event of any member of the public suffering injury or property damage by reason of the presence of the hoarding.
- k) Any damage to the footway, roadway or any other Council infrastructure incurred as a result of the presence of the hoarding or any works carried out in the vicinity shall be repaired/replaced/cleaned by the applicant to the

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satisfaction of Council. Full cost of reparations shall be borne by the applicant.

2.7 Council criteria to be considered when approving permanent public seating on Public Roads (S68 – E2)

- a) Permanent public seating may only be approved at intersections along:
 - Church Street, between Meade Street and Oliver Street intersections, inclusive;
 - Ferguson Street, between Church Street and Lambeth Street intersections, inclusive;
 - Meade Street, between Church Street and Hunter Street intersections, inclusive.
- b) A maximum of one (1) seat per available corner at any intersection will be approved.
- c) Seating shall be located a sufficient distance from the edge of the kerb to prevent interference with the vision of oncoming traffic. Such distance shall be determined by Council.
- d) Approval period shall be a maximum of five (5) years, with Council reserving the right to revoke an approval at any time.
- e) Applicable approval fees shall be as determined in Council's Operational Plan.
- f) All applicants shall secure a public risk policy to a minimum limit of liability of \$20 million in favour of the Council to indemnify Council in the event of any member of the public suffering injury or property damage by reason of the presence of the seating.
- g) Advertising signage on seating:
 - No signage may be affixed to seating without the prior approval of Council;
 - Signage may be approved on all seating, with the exception of any seating on street corners in Public Parks;
 - Each applicant shall have sole advertising rights on seating specified in their approval;
 - Maximum size of any signage is 2000mm long by 600mm high;
 - Signage must be affixed to the rear of the backrest of the seat, and may not protrude beyond the edges or top of the seat;
 - Signage must not be reflective, or be lit with continuous, flashing or scintillating lighting;
 - Advertising material must not contain any material likely to be construed by motorists as an official traffic sign, or contain any representation of a traffic sign;
 - Council reserves the right to remove any signage deemed offensive or inappropriate.

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PART 3 - OTHER MATTERS RELATING TO APPROVALS

3.1 APPLICATION OF THE POLICY

This local approvals policy applies to those activities requiring approval under the provisions of Chapter 7 Part 3 of the *Local Government Act 1993*.

Approvals/consents 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*.

3.2 EXEMPTION OF APPLICATION FEES

Council as a general rule does not waive application fees. Consideration may be given by Council to reimburse application fees to community groups and the like in conjunction with Council's Donations Policy and procedures.

3.3 RECONSIDERATION OF APPLICATIONS

Where an applicant formally requests Council, under Section 100 of the *Local Government Act 1993*, to review a determination of an application, the request must be made in writing within 28 days of Council's determination providing justification for Council's review and is to be accompanied by the appropriate fee. Council may review the determination and may confirm or change the determination. The review would be conducted by a higher delegate of the Council, or the Council. The determination of the review is final.


3.4 IMPLEMENTATION/COMMUNICATION

Following adoption of the Policy, the Director of Development, Planning and Regulatory Services will inform Regulatory staff members about the Policy, ensure that a notice is placed in Council's column in the Glen Innes Examiner advising of its adoption, and ensure that a copy of the Policy is uploaded to Council's website.

3.5 REVIEW OF POLICY

The Policy will be automatically revoked at the expiration of 12 months after the declaration of the poll for the next general election, unless the Council revokes it sooner.

Note: Section 165(4) of the Act provides for automatic revocation of the Policy. The next general election is expected to be held in November 2020.



.....
General Manager

.....12-3-2018.
Date

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Schedule 1

Activities requiring the prior approval of Council

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A person may carry out an activity specified in the following Table only with the prior approval of the Council, except in so far as this Act, the Regulations or a Local Policy adopted under Part 3 of the Act allows the activity to be carried out without approval.

Part A: Structures or places of public entertainment

1. Install a manufactured home, moveable dwelling or associated structure on land.
2. (Repealed).
3. (Repealed).

Part B: Water Supply, sewerage and stormwater drainage work

1. Carry out water supply work.
2. Draw water from a Council water supply or a standpipe or sell water so drawn.
3. Install, alter, disconnect or remove a meter connected to a service pipe.
4. Carry out sewerage work.
5. Carry out stormwater drainage work.
6. Connect a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer, which connects with such a public drain, or sewer.

Part C: Management of waste

1. For fee or reward, transport waste over or under a public place.
2. Place waste in a public place.
3. Place a waste storage container in a public place.
4. Dispose of waste into a sewer of the Council.
5. Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.
6. Operate a system of sewage management (within the meaning of section 68A).

Part D: Community Land

1. Engage in a trade or business.
2. Direct or procure a theatrical, musical or other entertainment for the public.
3. Construct a temporary enclosure for the purpose of entertainment.
4. For fee or reward, play a musical instrument or sing.
5. Set up, operate or use a loudspeaker or sound amplifying device.
6. Deliver a public address or hold a religious service or public meeting.

Part E: Public roads

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.

Part F: Other Activities

1. Operate a public car park.
2. Operate a caravan park or camping ground.
3. Operate a manufactured home estate.
4. Install a domestic oil or solid fuel heating appliance, other than a portable appliance.
5. Install or operate amusement devices.
6. (Repealed).
7. Use a standing vehicle or any article for the purpose of selling any article in a public place.
8. (Repealed).
9. (Repealed).
10. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations.

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Schedule 2

Activities Exempt from Council Approval

- 1. Legislative Exemptions
- 2. Local Exemptions

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1. Legislative Exemptions

The Local Government (General) Regulation and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation lists some activities that are exempt from the need for approval.

The Regulations specify conditions applicable to exemptions and reference should be made to the relevant provisions before proceeding with the proposed activity.

An outline of the legislative exemptions is below.

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

Clause 9 (1)(a) 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, and
- (ii) it is not occupied by any person until a certificate of completion has been issued for it, or

Clause 9 (1)(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.

- 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;
- 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;
- 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.

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Clause 74 Installation of moveable dwellings and associated structures in caravan parks and camping grounds, provided the structure is designed, constructed and installed with the relevant provisions of the Regulations, the site is not liable to flooding and the installation occurs with the consent of the holder of the approval to operate the caravan park or camping ground concerned.

Clause 77(a) 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.

Clause 77(b) 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.

Clause 77(c) 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.

Local Government (General) Regulation 2005 Exemptions

Draw water from a Council water supply (B2 activity)

Clause 24 A Council employee acting in the course of his or her employment may draw water from a water supply system or standpipe without the prior approval of the Council. (Note this water is not to be used for human consumption).

Transport waste (C1 activity)

Clause 48(a) The transporting of waste over or under a public place for fee or reward if:

- The activity is licensed under the Protection of the Environment Operations Act 1997, or
- The activity is being carried out in the Sydney metropolitan area as defined in Part 3 of Schedule 1 of the Act, or
- The waste is being transported through the area of the Council and is not being collected or deposited in that area.

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Place waste in a public place (C2 activity)

Clause 48(b) The placing of waste in a public place, if done in accordance with arrangements instituted by the Council. Refer to criteria outlined in Part 1: Local exemptions.

Install, construct or alter a waste treatment device (C5 activity)

Clause 48(e) The installation, construction or alteration of a waste treatment device, if that installation, construction or alteration is done:

- under the authority of a licence in force under the Protection of the Environment Operations Act 1997;
- in a vessel used for navigation;
- in a motor vehicle registered under the Road Transport (Vehicle Registration) Act 1997 that is used primarily for road transport.

Grey water diversion device (Subdivision 6) [Note: not permitted on unsewered properties]

Clause 75A Installation and operation of a system for diverting greywater generated on residential premises to a garden or lawn on those premises, but does not include the manual collection (single dwelling) and re-use of greywater. 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 and Drainage Code of Practice, 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;
 - (vii) the minimisation of any adverse impacts on the amenity of the premises concerned and surrounding lands.

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Note: Greywater means waste water from washing machines, laundry tubs, showers, hand basins and baths, but does not include waste water from a kitchen, toilet, urinal or bidet.

Operate a system of sewage management (C6 activity)

Clause 48(f) So much of the operation of a system of sewage management as is limited to an action carried out:

- under the authority of a licence in force under the Protection of the Environment Operations Act 1997;
- in a vessel used for navigation;
- in a motor vehicle registered under the *Road Transport (Vehicle Registration) Act 1997* that is used primarily for road transport.

Clause 47 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 s.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).

Further, if the person duly applies, within the period of two (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.

Use of a loudspeaker or amplifying device on community land (D5 activity)

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 or if it is done in the circumstances specified, in relation to the setting up, operation or use (as the case may be), in Part 1 of the local approvals policy applying to the land. Refer to criteria outlined in Part 1: Local exemptions.

Domestic oil or solid fuel heating appliance (F4 activity)

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*.

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Related Documents: GISC Outdoor Dining and Footpath Trading Policy, <i>Local Government Act 1993</i>			

Operation of a public car park (F1 activity)

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.

Amusement devices (F5 activity)

Clause 71 Amusement devices not required to be registered under the Work Health and Safety Regulation 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:

- 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;
- the device is registered under the Work Health and Safety Regulation;
- the device is erected and operated in accordance with all conditions relating to its erection or operation set out in the current certificate of registration issued for the device under those Regulations;
- there exists for the device a current log book within the meaning of those Regulations;
- in the case of a device that is to be or is installed in a building, fire egress is not obstructed;
- there is in force a contract of insurance or indemnity for the device that complies with clause 74 (see below).

In the Regulation, small amusement device means an amusement device that is designed primarily for the use of children 12 years of age or under (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).

Clause 74 It is a condition of an approval to install or operate an amusement device that there must be in force a contract of insurance or indemnity that indemnifies to an unlimited extent (or up to an amount of not less than \$10,000,000 in respect of each accident) each person who would be liable for damages for death or personal injury arising out of the operation or use of the device and any total or partial failure or collapse of the device against that liability.

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2. Local Exemptions

	Type of Activity	Criteria	Advisory Notes
	PART B - WATER SUPPLY, SEWERAGE AND STORMWATER DRAINAGE WORK		
1	Carry out water supply work	<p>Property located outside Glen Innes or Deepwater water supply district.</p> <p>Minor extension of existing residential or rural water supply service comprising such works as relocation of taps, installation of water storage tanks not requiring the consent of Council residential garden irrigation works and rural irrigation works utilising a private water supply.</p> <p>Does not relate to the re-cycling of grey water.</p> <p>All work carried out by a licensed Plumber.</p> <p>Water supply work is to comply with the <i>Plumbing And Drainage Act, 2011</i>, the National Construction Code – Plumbing Code of Australia, and AS/NZS 3500 – 2003 - Plumbing And Drainage.</p>	
2	Draw water from a Council water supply or a standpipe or sell water so drawn	<p>A person may draw water from the standpipe at the Council's truck wash facility for the purpose of washing out livestock transporters provided payment has been made using the installed AvData system.</p> <p>A person may draw water from the standpipe at the Council Saleyards provided payment has been made using the installed AvData system.</p>	
5	Carry out stormwater drainage work	<p>Relates to a single dwelling on a single allotment of land.</p> <p>Relates to the repair or replacement of existing stormwater drainage lines including guttering and downpipes.</p> <p>New stormwater drainage works servicing a maximum roof area of 100 square metres. Drainage lines are to be connected to the street drainage system where the fall permits.</p> <p>Drainage work to comply with the <i>Plumbing And Drainage Act, 2011</i>, the National Construction Code – Plumbing Code of Australia, and AS/NZS 3500.3.2-Stormwater Drainage - 2003.</p>	<p>Note – An approval under S138 of the <i>Roads Act, 1993</i> to conduct any works within the road reserve, such as connecting storm water drainage lines to the street gutter, will be required.</p>

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PART C - MANAGEMENT OF WASTE			
	Type of Activity	Criteria	Advisory Notes
2	Place waste in a public place	<p>In accordance with the exemption given in Clause 48(b) of the Local Government Regulations, the placement of Council supplied domestic 140L, 240L and 360L wheellie bins on the kerb for collection must comply with the following criteria, in line with Council's Domestic Waste Management Policy:</p> <p>Uncontained waste (for example plastics bags and loose cardboard boxes) are not permitted to be placed next to, or on top of bins.</p> <p>Bins should be put out for collection the night before the scheduled collection and must be removed from the public place as soon as possible on the day of collection and stored on private property.</p> <p>Bins must be placed immediately in front of the resident's property and / or located at an approved service pick up point.</p> <p>Lids of bins must remain closed, and the container surrounds be kept tidy at all times.</p> <p>The resident is responsible for the cleanliness of their bins.</p>	<p>This relates to the normal weekly collection service bins provided by the Council.</p> <p>Additional information may be found in Council's Domestic Waste Collection Policy.</p>
3	Place a waste storage container in a public place	<p>The waste storage container is associated with a single dwelling on a single residential premises;</p> <p>Only 1 container per property;</p> <p>The container is to have a maximum capacity of 2m³;</p> <p>Maximum period of 72 hours;</p> <p>Located so as to not interfere with vehicular or pedestrian traffic;</p> <p>Appropriate barricades, guards, lighting and reflectors shall be provided where necessary to prevent the container being a traffic hazard;</p> <p>Waste shall be secured to prevent being dislodged by wind and other forces including animals;</p> <p>Not to be used for the disposal of hazardous or noxious material.</p>	<p>This relates to the use of mini skips and not the normal weekly collection service.</p> <p>Council may require the relocation of a container where it is or is likely to pose a hazard.</p> <p>Chemicals and materials such as asbestos cement sheeting require separate arrangements to be made for their disposal.</p>

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4	Dispose of waste into a sewer of the Council	<p>The disposal of septic tank effluent into a sewer of the Council.</p> <p>The disposal by contractors of septic tank contents collected within the Glen Innes Severn Council Local Government Area at Council nominated dump points.</p>	Such disposal by contractors is subject to payment of applicable fees as nominated in the current Operational Plan.
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PART D - COMMUNITY LAND			
	Type of Activity	Criteria	Advisory Notes
2	Direct or procure a theatrical, musical or other entertainment for public	<p>Required:</p> <ol style="list-style-type: none"> Be located in specially designated areas as determined by Council from time to time; Performers must contact Council's Manager of Recreation and Open Spaces and obtain a Park Booking Permit; The activity shall not cause offensive noise as defined in the <i>Protection of the Environment Operations Act, 1997</i>; Activities shall only occur between the hours of 8am and 10pm Monday to Saturday, with the exception of activities associated with recognised Council sponsored events such as the annual Celtic Festival; and The performance must not involve the use of dangerous materials and implements nor include drawing or marking any footpaths or affixing any matter or structure to footpath paving. Must not use a public address, sound system or amplified equipment Performers may receive voluntary donations from the audience but may not solicit funds. The activity shall incorporate appropriate risk management practices so as to avoid injury or loss. <p>Not occur:</p> <ol style="list-style-type: none"> Outside Town or village centres; Within 5 metres of a taxi stand or intersection; In any area adjacent to a residential premise, educational establishments, place of public worship or in any park or reserve. 	<p>Any person conducting an activity under this exemption must comply with any direction of an authorised officer of Council.</p> <p>Note - Council and Police have the right to remove people if they are causing a nuisance to the public. This includes excessively repetitive performances.</p> <p>If a proposed activity involves fireworks, contact Council to arrange an approval.</p>

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4	For fee or reward, play a musical instrument or sing	<p>Required:</p> <ol style="list-style-type: none"> Be located in specially designated areas as determined by Council from time to time. Performers must contact Council's Manager of Recreation and Open Spaces and obtain a designated area to perform; Performers may receive voluntary donations from the audience but may not solicit funds; The activity shall not cause offensive noise as defined in the <i>Protection of the Environment Operations Act, 1997</i>; Activities shall only occur between the hours of 8am and 10pm Monday to Saturday, with the exception of activities associated with recognised Council sponsored events such as the annual Celtic Festival; and The activity shall incorporate appropriate risk management practices so as to avoid injury or loss. The activity must not incorporate the use of a loudspeaker or sound amplifying device. 	<p>Any person conducting an activity under this exemption must comply with any direction of an authorised officer of Council.</p> <p>Note - Council and Police have the right to remove people if they are causing a nuisance to the public. This includes excessively repetitive performances.</p>
PART E - PUBLIC ROADS			
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	<p>Display an A-Frame or sandwich board sign on footpath;</p> <ol style="list-style-type: none"> Not permitted outside premises where the footpath has been approved for dining; Supply to Council a certificate of currency of Public Liability Insurance stating the start and end date of the period insured, PRIOR to placing any article on the public footway; Not more than one (1) sign per shop or business; The sign shall not exceed 1 metre in height with the advertising panel not exceeding 900 mm high by 600 mm wide; Located immediately adjacent to and extending no further than 700mm from the front of the shop or business; A minimum of 1.5 metres of unobstructed footpath to be maintained between the sign and the kerb; The sign must not present an obstruction or risk to public safety. To this end it must be secured or weighted to prevent the sign being overturned by pedestrians or the wind. 	

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		<p>Use of footpaths by shopkeepers, for the storage of a variety of goods and articles which may include but not be limited to flowers, fruit and vegetables, clothing, electrical or hardware equipment on the footpath directly outside their specific premises subject to;</p> <ul style="list-style-type: none"> a) A 1.5 metre wide unobstructed section of footpath shall be maintained at all times; b) Goods displayed shall relate only to the business conducted at the premises; c) The holder of the approval shall maintain the display area in a clean and tidy condition; d) All goods or display stands shall be secure and finished so as not to cause injury to pedestrians and shall be removed from the footpath when the premises are closed; e) Public address systems, cash registers and the like are prohibited; f) Supply to Council a certificate of currency of Public Liability Insurance stating the start and end date of the period insured, PRIOR to placing any article on the public footway; g) Footpath trading activities must be located on a safe, stable, hard surface that is sufficiently level to provide adequate stability to display stands; h) Display racks and stands must be suitably weighted down to prevent overturning by customers or the wind, and must not be on wheels without secure locking mechanisms; i) The footpath trading activity is not to extend beyond the side property boundary of the premises. <p>Outdoor dining on Council owned land will only be exempt where;</p> <ul style="list-style-type: none"> a) Is located on a suitably constructed surface that is sufficiently level to allow for the safe use of the furniture; b) Maintains a minimum unobstructed footpath width of 1.5 metres at all times between the outdoor dining area and the building; c) Is located to allow for continuous easy movement of pedestrians along the footpath; d) Is located so as not to interfere with car parking and vehicular movement; e) In Grey Street is located 0.6m from a parallel car park; f) Is designed so that furniture will not be placed within 1.5 metres of any disabled car parking space; and <p>Street furniture must be of a high quality, i.e. powder coated, polished aluminium, brushed or stainless steel, natural or painted timber are preferred. Domestic style furniture is not permitted as it is not generally considered to be high quality, aesthetically pleasing or durable. Umbrellas are to be securely anchored;</p>
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	<p>g) Is located directly in front of the premise to which it relates unless written consent from the adjoining owner or proprietor is provided;</p> <p>j) Supply to Council a certificate of currency of Public Liability Insurance stating the start and end date of the period insured, PRIOR to placing any article on the public footway;</p> <p>h) The business use of footpath area and area between the shop premises shall be kept clean at all times and any spilt food, liquid or other material likely to cause injury shall be removed immediately by the applicant/operator.</p>	<p>however permanent anchoring is not permitted.</p> <p>Umbrellas are to be a minimum of 2.2 metre high above the footpath when open and a minimum of 400mm from the kerb line.</p> <p>All furnishings are to be removed from the public domain and stored elsewhere outside of trading hours.</p> <p>Barriers are to be used to define the outdoor dining area. The barriers are to be of a metal frame and canvass fill and maximum height of 900mm..</p> <p>The minimum practical depth for an outdoor dining area is 1.0 metre. This provides adequate space for one (1) table and two (2) chairs. Each additional chair is to be allocated an extra 0.5 metres of footpath area.</p> <p>Sale of hot food and coffee are not permitted.</p>
	<p>Use of the Town Square and footpaths in Grey St between Meade and Bourke St for market days and street stalls is exempt from Council approval subject to:</p> <p>1. Approved items for sale are restricted to bric a brac, whole fruit and vegetables, fresh produce, and homemade pre-packaged cakes, jams and preserves.</p>	

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		<p>Any person conducting an activity under this exemption must comply with any direction of an authorised officer of Council.</p>
	<p>2. All items for sale must be placed on tables or trestles erected for the purpose. Sale items must not be placed directly on the ground.</p> <p>3. All stall holders shall secure a public risk insurance policy to a minimum limit of liability of \$20 million in favour of Council. The policy must indemnify Council in the event of any member of the public suffering injury or property damage attributable to any exempt activity, or any item associated with the activity. The policy must be obtained PRIOR to placing any article on the public footway and be with the stall holder at all times.</p> <p>4. The Town Square and footpath area shall be kept clean at all times and any spilt food, liquid, or other material likely to cause injury, shall be removed immediately by the relevant stall operator.</p> <p>5. All stalls and related activity conducted within the Town Square must be confined within the bollarded area.</p> <p>6. All activities on the footpath area must:</p> <ul style="list-style-type: none"> a) Obtain the permission of the adjoining business owner or proprietor prior to conducting any activity; b) Activities located immediately on front of the Town Hall are deemed to have the prior permission of Council; c) Maintain a minimum unobstructed footpath width of 1.5 metres at all times between the stall and kerb; d) Be located to allow for continuous easy movement of pedestrians along the footpath; and e) Be located so as not to interfere with car parking and vehicular movement. 	

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	Type of Activity	Criteria	Advisory Notes
PART F - OTHER ACTIVITIES			
4	Install a domestic oil or solid fuel heating appliance, other than a portable appliance	<p>Compliance with the manufacturer's installation instructions/recommendations and:</p> <p>(a) Heater has a compliance plate stating that it conforms to AS 4013 - Domestic Solid Fuel Burning Appliances - Method for Determination of Flue Gas Emission.</p> <p>(b) Structural integrity of building not adversely affected.</p> <p>(c) Top of chimney/flue minimum 1m and maximum 3m above roof ridge.</p> <p>(d) All installation to be in accordance with the provisions of Part G2 of the National Construction Code or Part 3.7.3 of the NCC Housing Provisions and AS 2918 - Domestic Solid Fuel Burning Appliances - Installation.</p> <p>(e) Any openings created are to be adequately weatherproofed.</p>	<p>Operation should be in accordance with the Environment Protection Authority "Guidelines for Selecting, Installing and Operating Solid Fuel Heaters."</p> <p>Consideration should be given to the location, chimney/flue height and likely smoke effects on adjacent occupants.</p>
7	Use a standing vehicle or any article for the purpose of selling any article in a public place	<p>For the purpose of a community street stall and street collections (including badge/pin days) and distribution of promotional information by individuals subject to the following: Minimum 1.5 metres of footpath shall be available for public movement.</p> <p>The activity shall not cause offence or obstruction.</p> <p>Consent from the owner of the store is obtained for the activities to take place in front of their store.</p> <p>Not to include a public address system or the like.</p> <p>Surrounding area is to be maintained in a clean and tidy condition and free of hazard and rubbish.</p> <p>A copy of the organisations Current Liability Insurance Policy is supplied to Council.</p> <p>Only permitted within village/town centres</p> <p>a) Street collections must be for a registered charity where monies are channelled direct to the charity. Collectors may receive voluntary donations from the audience but may not solicit funds;</p> <p>b) Not to include a public address system or the like;</p> <p>c) Not occur within 5 meters of a taxi stand or intersection;</p> <p>d) Not occur in any area adjacent to a residential premise, educational establishments, place of public worship or in any park or reserve.</p>	<p>Does not apply to selling of food for fund raising or profit.</p>

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Schedule 3

Street Vending Guidelines

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STREET VENDING

Foreword

Street vending activity involves the selling of articles either directly or from a stall or standing vehicle or at a footpath restaurant or take-away service facility on public roads and public places. Street vending has general community support and may improve the amenity of streets and public places and provide added convenience and economic benefit for the community.

There are several State Government organisations with responsibility for aspects of street vending. The Roads and Traffic Authority NSW (RTA) is responsible for the safe and efficient use of the State's roads. The Police Service has responsibility for law enforcement. The Office of Local Government has responsibility for Local Government legislation and promoting efficiency in Local Government administration.

Local Councils have specific operational responsibility for the regulation of street vending activity in NSW. The *Local Government Act 1993* requires anyone engaged in street vending activity to obtain prior approval from the local Council and to comply with Council conditions. The *Roads Act 1993* requires prior consent for street vending structures and allows Councils to charge rents in built-up areas.

This manual has been prepared jointly by the RTA and the Department of Local Government in association with the Police Service and the Local Government and Shires Associations of NSW.

The manual provides guidance on relevant policy and clarifies responsibilities of Councils, RTA, Police Service and street vending operators. This manual supersedes Guidelines for the control and operation of street vending, January 1993. Councils are required to consider and apply this manual when determining applications for street vending approval under the *Local Government Act 1993*, or consent for street vending structures on public roads under the *Roads Act 1993*.

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1. Introduction

This manual provides Councils and street vending operators with guidance to more effectively and consistently control and operate street vending activities within a public road or a public place. In particular, this manual outlines the responsibilities and criteria for approvals so that problems associated with street vending are minimised.

This manual is mandatory where street vending is carried out from street vending structures in built-up areas and Council wishes to charge rent for such activities. See Section 6, Criteria for approvals, of this manual for more information.

2. Definitions

Arterial roads – these roads predominantly carry through traffic from one region to another and form principal avenues of communication for metropolitan traffic movements. Arterial roads are usually part of the declared classified road system.

Carriageway – that portion of the road reserve devoted particularly to moving vehicles. See Figure 1.

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.

Kerb – a raised border of rigid material formed at the edge of a carriageway. See Figure 1.

Mobile vending vehicle – see street vending vehicle.

Public place – means a public road, bridge, jetty, wharf, road ferry, public bathing reserve, public baths, public land and other land which is a public place under the *Local Government Act 1993*.

Public road – means a road which the public are entitled to use.

Public street – means any street, road, lane, thoroughfare, footpath, or place open to or used by the public, and includes any place at the time open to or used by the public on the payment of money or otherwise.

Road reserve – the entire right-of-way devoted to public travel, including footpaths, shoulders, verges and carriageways – the whole width between adjacent property boundaries. See Figure 1.

Road users – includes pedestrians, motorists, cyclists and motor cyclists.

Shoulder – the portion of the carriageway beyond the traffic lanes and contiguous and generally flush with the surface of the pavement.

Standing vehicle – includes any vehicle, whether registered or not, which is stopped on a public road or a public place for the purposes of selling any article.

Street vending vehicle – for the purpose of street vending approval under the *Local Government Act 1993*, this term includes all types of vehicles (registered or unregistered)

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which are used for the sale of articles in a public road or public place. This term means a registered motor vehicle plying on public streets and making brief intermittent stops for the hawking of ice cream, chocolates, sweets or the like as defined by the Road Transport (Vehicle Registration) Regulation, 2007.

Street vending – involves the selling of articles either directly or from a stall or standing vehicle in a public street or a public place. Examples of street vending activities include:

- 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, a standing vehicle or structure (e.g. kiosks) in a pedestrian mall, near a tourist area, sporting venue or the like not being on private land;
- sale of food or articles from a box, stall or table located on a footpath, including stalls operated by charitable organisations;
- sale of any goods from a stall, stand, or standing vehicle located in a kerbside lane or on the side of a carriageway;
- setting up of footway restaurants or take-away facilities for sale or serving of drinks in a pedestrian area;
- sale of flowers from a box on the side of a carriageway;
- sale of food, confectionary or other articles from a standing street or mobile vending vehicle on the side of a carriageway.

Street vending structure – a structure referred to in Section 138 of the *Roads Act 1993* in respect of which street vending consent may be granted.

Vehicle – any type of vehicle, e.g. motor vehicles, bicycles, motor cycles, barrows, etc. whether registered or not.

3. Traffic and safety problems

The practice of street vending can have an adverse effect on traffic safety and operation. Street vending activities should not be approved on public streets where there is a conflict with road users which cannot be resolved.

However there are locations where street vending can be accommodated without compromising the safety and convenience of road users. Such locations may include public roads:

- in urban areas with wide footpaths;
- where the speed limit is less than 80 km/h and the carriageway has wide shoulders.

The selling of goods to passing motorists from the kerbside lane or verges is potentially dangerous as vehicles may have to suddenly stop creating unsafe situations with moving traffic. Similarly setting up of footway restaurants and take-away facilities in public places and on footpaths may jeopardise the free movement of pedestrians, especially children, the elderly and people with disabilities, including wheelchair users. Also dangerous situations may arise when pedestrians are forced on to the carriageway by the encroachment of street vending stalls or footway restaurants.

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These problems may arise because of:

- a) the lack of defined entry and exit to street vending locations;
- b) inadequate or lack of parking areas;
- c) hazardously located advertising signs; and
- d) inadequate room for the mobility of pedestrians, especially people with disabilities, and for the passage of prams and wheelchairs.

Street vending activities often produce more hazardous traffic conditions than comparable off-street developments as no defined entry and exit or parking locations exist, leading to random, uncontrolled and unexpected traffic manoeuvres. This is particularly the case when street vendors are selling articles to passing motorists on:

- roads where the speed limit is 80 km/h or higher;
- busy arterial roads.

A number of activities such as selling newspapers, charity collections and cleaning windscreens from the carriageway of a public street, especially at intersections controlled by traffic signals, may cause obstruction, hindrance or prevent the free passage of road users. In some circumstances these activities are potentially unsafe and may lead to injuries and deaths.

4. Legislation

It is an offence under the *Local Government Act 1993* to carry out any street vending activity without the prior approval of the Council of the area in which the activity is conducted. The offence is punishable by an on-the-spot penalty.

Section 68 (F7) of the *Local Government Act 1993* requires any person using a standing vehicle or any article for the sale of any article in a public place to obtain the prior approval of the Council. The Act sets the procedure for making an application for approval and for determination of applications by Council. The Council may refuse approval or grant approval subject to conditions. The Council may also require the payment of an application fee and may fix the period for which the approval will operate. The applicant is entitled to be advised of any regulatory requirements in advance and to know the reasons for the Council's decision. The applicant has a right of appeal to the Land and Environment Court if dissatisfied with the Council's decision.

Street vending vehicles or mobile vending vehicles which sell ice cream, chocolates, sweets or the like are to meet the requirements of clause 126 of the *Road Transport (Vehicle Registration) Regulation 2007*, in respect of flashing warning lamps.

Section 125 of the *Roads Act 1993* empowers Council to approve footway restaurants, and requires RMS concurrence if these facilities are on classified roads. The *Roads Amendment (Street Vending) Act 1996* introduced into the *Roads Act 1993*, includes a number of provisions (mainly Sections 139A to E) in respect of consents for the use of a structure in built-up areas for the purposes of selling any article or service. Section 139F requires compliance with Section 6 of this manual when granting a consent for such a structure. Section 138 requires RMS's concurrence if the structure is on a classified road.

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Under Clause 236(4) of the *Road Rules 2014*, it is an offence if persons carrying out activities such as sale of newspapers, charity collections and windscreen cleaning from a carriageway of a public street(s) cause obstruction, hindrance or prevent the free passage of road users.

5. Responsibilities

5.1 Councils

Councils have general responsibilities for the stewardship and management of public roads and public places. Councils have specific powers and responsibilities under the *Local Government Act 1993* to control street vending activity and the *Roads Act 1993*, gives Councils power to control footway restaurants and structures on public roads.

Under the *Local Government Act 1993*, Councils may use local approval policies to establish formal criteria for street vending approvals. In determining applications for street vending approval, Councils should consider:

- a) the requirements of any relevant Acts and Regulations;
- b) this manual;
- c) any traffic safety and management issues and relevant advice provided by the Local Traffic Committee(s);
- d) the circumstances and nature of the proposed street vending activity and its likely impact; and
- e) any relevant health and hygiene requirements, including food handling standards and appropriate provision for the collection and disposal of litter.

The RMS, in principle, does not favour street vending activities on classified roads for traffic and safety reasons. However Council should consult with the RMS and consider Section 6, Criteria for approvals, of this manual.

Under the *Roads Act 1993*, Councils have responsibility to:

- a) determine an application to use an area of footpath adjacent to a restaurant for purposes of footway restaurants;
- b) obtain the concurrence of the RMS prior to granting consent to erect any structure on a classified road; and
- c) comply with this manual for street vending carried out from a structure in a built-up area.

5.2 Roads and Maritime Services

The RMS's responsibility is to give advice on matters relating to traffic safety and management, either directly or through the Local Traffic Committee. RMS's views should always be considered by Council when determining applications for street vending approvals on classified roads.

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Related Documents: GISC Outdoor Dining and Footpath Trading Policy, <i>Local Government Act 1993</i>			

5.3 Police Service

The primary role of the Police Service is the enforcement of the Road Rules 2014 under the *Road Transport Act, 2013*. With respect to street vending activities, the role of the Police Service is to:

- better control activities involving charity collections, windscreen cleaning and sale of newspapers from carriageways of public streets;
- give advice on matters relating to safety and enforcement through the Local Traffic Committee.

5.4 Street vending operators

Councils are the sole approval authority for street vending within the road reserve and public places. Accordingly, the operator of a street vending proposal under the *Local Government Act 1993* and *Roads Act 1993* must first apply to local Council as the roads authority for approval in writing. The application should provide details of:

- a) the proposed location(s) of the activity;
- b) the proposed period of operation, including times and days of the week;
- c) the type of business including full details of the goods for sale;
- d) the nature of any signs, including warning and advertising signs, and
- e) any further information required by the Council.

When operators carry out street vending they must comply with the conditions detailed in the written approval issued by the Council (there is an on-the-spot penalty for failure to comply, and the approval may be revoked).

6. Criteria for approvals

Where selling of any article or service is carried out from street vending structures in built-up areas and Council wishes to charge rent for the activity, the requirements set out in this Section of the manual are mandatory.

6.1 General

The health and hygiene controls placed on street vending activities are matters for Council to determine. Traffic warning/information signs where required should conform to this manual. Street vending activities generally cater for pedestrians and for passing traffic.

6.2 Pedestrians

Street vending activities catering for pedestrians must:

- a) not unduly obstruct the free passage of pedestrians, especially children, people with prams, the elderly and people with disabilities, including wheelchair users;
- b) be located on footpaths wide enough to accommodate the street vending activity as well as to allow the free movement of pedestrians during peak periods;
- c) be carried out from a safe structure if a structure is used;
- d) not be located where they would breach regulatory or signposted parking/standing restrictions (e.g. barrows in kerbside lanes when parking restrictions apply);
- e) not be located in front of driveways or entrances to properties unless the permission of the property owner has been obtained.

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6.3 Passing traffic

Street vending activities catering for passing traffic (generally rural and non-CBD situations in urban areas) must:

- a) not be located where speed limit is 80 km/h or higher, unless safety and efficiency is not compromised;
- b) not be located on a hill or a bend where sight distance is limited (refer to RMS's Road Design Guide);
- c) not be located in front of driveways or entrances to properties unless the permission of the property owner has been obtained;
- d) not be located where motorists are forced to park in the kerbside lane, where parking/standing restrictions apply;
- e) have sufficient parking near the site;
- f) provide sufficient traffic warning signs in advance of the facility (signs should be placed only during periods of selling activity);
- g) not be located in a two-lane, two-way (one lane in each direction) street, unless safe approach to the facility and safe departure from the facility is available;
- h) only be allowed from vehicles standing in the kerbside lane if an additional lane is available for moving traffic in that direction of travel, and there are no kerbside standing/parking restrictions;
- i) not be allowed to operate during hours of darkness, especially from a street vending vehicle or mobile vending vehicle unless adequate street lighting or other forms of lighting is available to warn pedestrians and other road users.

7. Approvals

The determination of an application for approval to carry out street vending activity either under the *Local Government Act 1993* or the *Roads Act 1993* is the responsibility of the local Council. The Council is required under Section 77 of the *Local Government Act 1993* to bring relevant approval criteria or regulations to the attention of an intending applicant.

The Council is required under Section 113 of the *Local Government Act 1993* to maintain a register of approvals showing:

- a) the serial number of the approval;
- b) the date of application;
- c) the amount of the application fee and the date it was paid;
- d) the period for which the approval operates;
- e) the name and address of the person to whom the approval is granted;
- f) the location(s) at which the approved activity may be conducted;
- g) a description of the approved activity (including hours and days of operation); and
- h) details of any conditions of approval and whether the approval has been revoked or modified.

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In determining an application for approval the Council must have regard to Section 89 of the *Local Government Act 1993* and must not approve an application if the activity would not comply with relevant regulations. Approvals for street vending activities may be given on a general–area or site–specific basis.

- a) The approval in writing should normally include the following:
- the permitted location for the street vending facility;
 - the approved times and days of operation;
 - the types of goods permitted to be sold;
 - details of signposting requirements, if any;
 - other conditions as may be deemed appropriate or necessary by Council.

It is recommended that the Council should apply standard conditions of approval requiring that a street vending operator must:

- a) display evidence of a current street vending approval whenever street vending activities are being conducted;
- b) provide proof of identity whenever requested by an authorised Council employee or by the Police;
- c) comply with relevant food and traffic regulations.

An approval may be revoked if the operator does not comply with the written conditions.

Note: The exposure of articles (whether for sale or not) in or on or overhanging a public road usually requires Council approval under Item 2 Part E of the Approvals Table to Section 68 of the *Local Government Act 1993*. An application for approval under Section 68E(2) may be made concurrently with a street vending application under Section 68F(7) or, where articles on display are not used for selling purposes, a separate application under Section 68E(2) may be appropriate.

The requirement for approval to expose articles on the street enables Councils to regulate the display of goods and produce on the footpath and other road areas. Failure to obtain approval is an offence punishable by a penalty notice. The guidance provided in this manual in relation to street vending is generally relevant to applications for displays.

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