



Hawker/Peddler Policy

Date policy was adopted by Council:	
Resolution number:	
Previous Policy review date:	11/12/2013
Next Policy review date:	
Reference number:	C1636190

1. OUTCOMES:

To provide guidance in determining applications for Hawker/Peddler approval under Section 68 (F7) of the Local Government Act 1993.

2. POLICY:

This policy establishes the governance processes Council will apply to trade or business of an itinerant and short term nature on public land. The policy recognises the special nature of these activities and provides practical solutions to ensure an acceptable standard of public health and safety, particularly in relation to the preparation and sale of food and operation from roadsides.

3. DEFINITIONS

Approval

Means an approval by Council of an application under Section 68 of the Local Government Act 1993.

Authorised Officer

Means a person who has been appropriately authorised by Queanbeyan City Council under relevant legislation.

Council

Means the Queanbeyan City Council or its successors.

Development Consent

Means the consent of Queanbeyan City Council under Part 4 of the Environmental Planning and Assessment Act 1979 for an applicant to carry out development and includes, unless expressly excluded, a complying development certificate.

Hawker/peddler

Means a person is a hawker or peddler if they sell goods from a stall, vehicle, boat or on their person on public land or door to door except in a:

- Market
- Fair
- House occupied by them; or
- Shop occupied by them

Goods do not include:

- Any purchased item that is pre-ordered and home delivered to a premises. Examples may include newspaper deliveries, deliveries of purchases made on the internet and home deliveries from supermarkets.

Potentially Hazardous Food

Means food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.

Private Land

Means land owned by other persons not including Council or the Crown.

Public Place

The definition of a public place is extensive and includes most areas normally regarded as public including reserves, roadways and footways as defined in the Local Government Act 1993.

4. LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

Section 68, Local Government Act (NSW) 1993, Part F

“A person may carry out an activity specified in the following table only with the prior approval of Council – Part F7 Use a standing vehicle or any article for the purpose of selling any article in a public place”

5. CONTENT:

Land to which this Policy applies.

- a) Except as provided for in b) below this policy applies to all public land within the local government area of the Queanbeyan City Council.
- b) No approval for an activity approval is required if:
 - The stall is one located on one of the designated sites on the Monaro Street footpath and approval from the Queanbeyan City Council's Public Officer has been given. This must be done in writing to Council
 - The stall is related to the shop in front of which it is located and complies with the requirements of Council's Local Orders Policy for Goods on Footways
 - The stall or vehicle is part of an event otherwise approved by Council and conducted in a public place eg. Monthly markets, community celebrations, Queanbeyan Show.

Typical scenarios where this Policy might be considered for application include the following:

Scenario 1 - Selling from a vehicle on the roadside:

A person wishes to set up a truck on the road side to sell flowers. Goods are sold directly to passers by.

Points to consider:

- Activity approval required
- Truck is a standing vehicle in a public place
- Refer to Engineers for impacts on road safety
- Refer to Planners to determine of development application required
- Details required: Location, goods sold & hours of operation

Scenario 2 - Selling from a stall on the roadside

A person wished to set up a stall on the side of the road to sell home made jam.

Points to consider:

- Activity approval required
- Stall is located in a public place
- Refer to Engineers for impacts on road safety
- Are there any special food safety standards that apply
- Details required: Location, goods sold & hours of operation

Scenario 3 - A mobile vending vehicle moves from location to location, staying at each point for a brief period of time. E.g. Mobile ice cream truck.

Points to consider:

- Activity approval required
- Sale is taking place on roadside so it is in a public place
- Are there any special food safety standards that apply
- Details required: Goods sold & hours of operation
- Pedestrian safety

Scenario 4 – A person goes door to door selling paintings or other goods.

Points to consider:

- Activity approval required
- Sale is taking place door to door
- Details required: Goods sold & hours of operation

Scenario 5 - Mobile food and drink outlets on private land.

Approval not required if:

- The operator has the consent of the owner of the land on which the development is carried out, and
- The activity does not restrict any vehicular or pedestrian access to or from the land or entry to any building on the land, and
- The activity does not obstruct the operation of, or access to, any utility services on the land or on adjacent land, and
- The activity is not located within the canopy of, or result in damage to, any tree growing on the land or on adjacent land, and
- The activity will not result in any damage to public property on the land or on adjacent land, and
- The activity is carried out on land within or immediately adjacent to a residential zone—only be carried out between 7.00 am and 7.00 pm on any day, and
- The activity is limited to 1 development on that land and does not contravene any conditions of a development consent for any other use carried out on the land.
- A registrable vehicle within the meaning of the NSW Road Transport Regulations 2013, or a cart, bicycle cart or the like must operate in accordance with the *Guidelines for mobile food vending vehicles* (NSW/FA/F1055/1302) published by the NSW Food Authority in February 2013, and any requirements of the Food Act 2003.

Matters for Consideration when Considering an F7 Activity Application

1. A written application with the appropriate fee is to be submitted to Council's Environment Planning and Development section for an approval to operate as a hawker/peddler.
2. Approvals may be issued for any period up to a maximum of 5 years.
3. Hawker/peddler transactions on roadways should only be performed in daylight hours ie. between the hours of sunrise and sunset.
4. The setting up of a vehicle or stall shall not occupy a public reserve unless part of an organised event.
5. Hawker/peddler transactions may not be performed within the Central Business District, within 200 metres of any shop, or on any main road or trunk road including Uriarra Road, Lanyon Drive, Canberra Avenue, Farrer Place, Bungendore Road, Kings Highway, Cooma Road, Morisset Street, Yass Road, Tomsitt Drive, Edwin Land Parkway, Ellerton Drive or Old Cooma Road.
6. Public risk and public liability insurance sum of \$20,000,000 indemnifying the licensee and Council and its servants agents and invitees against any penalties suits prosecutions and liabilities shall be provided for a minimum cover of one million dollars; a copy of this insurance policy or cover note to be submitted with application and with each renewal application.
7. Council may terminate a hawker/peddler approval at any time after a conviction of the licensee or any driver or operator under the Food Act 2003, the Motor Traffic Act or regulations, the Local Government Act 1993 or ordinances or a breach of any of the conditions of approval.
8. Sale of alcohol or other drugs is not permitted.
9. Council reserves the right to refuse an application for an approval.

Special provisions relating to Mobile or Street Vending Vehicles

1. Street vending vehicles used by hawker/peddler are to be an appropriate size, registered as a motor vehicle either in NSW or ACT, and kept clean and in good order and condition. Vehicles should be fitted with warning or hazard lights complying with provisions of NSW Road Transport Regulations 2013 and NSW Road Rules 2014 which are operated when vehicle is stopped to perform hawker or peddler transactions. Vehicles should display a warning sign in accordance with the Guidelines for Safer Operation of Mobile Vending Vehicles prepared by the Traffic Authority of NSW.
2. The driver of a street vending vehicle shall comply with requirements of NSW Road Transport Regulations 2013 and NSW Road Rules 2014.
3. Unless otherwise provided by the approval a street vending vehicle shall not occupy for the purpose of hawking and peddling transactions any one position in public road except for such period of time as engaged in the actual serving of a customer and shall therewith after serving a customer move on and shall not return to that position or over the same ground within one hour.
4. Music or other noise from a sound generating device or amplification equipment used on a street vending vehicle shall be operated so as to cause no noise of offence and to comply with the provisions of the Protection of Environment Operation (POEO) Act and the noise regulations.

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5. Street vending vehicles selling food as defined shall comply with the provisions of the Food Act 2003 and Regulations and with Council's Temporary Food Premises Policy.
 6. Vendors wishing to establish a permanent site for vending must obtain development consent from Council. The type of issues that will be considered include, land zoning, hours of operation, public safety, customer parking, trade waste, visual amenity and community comment.
 7. Dogs or other animals or birds shall not be permitted to travel on street vending vehicles.

Approvals and inspections

1. Itinerant food vendors operating an approved mobile food vehicle shall be permitted to operate at, and for the duration of, any fete, fair, festival, carnival, community market, sporting or similar event, with permission of the event organiser. Vendors with a temporary food stall, cart or other device, shall not, except under exceptional circumstances, exceed one consecutive day's operation at the same location/venue. Itinerant food vendors utilising a cart or other device shall only be permitted to sell pre-packaged, non-potentially hazardous food.
2. Mobile or street vending food vehicles must be inspected by Council's Environmental Health Officer prior to approval.
3. Approvals must be on display and clearly visible in the temporary food stall or mobile food vehicle.
4. If the business is sold, the new operator must contact Council to arrange for a transfer of the approval and submit to Council a copy of current Public Liability Insurance cover as stated above.
5. Any vendor may be required to cease trading should an authorised officer of Council consider the vendor is not complying with Council policy or relevant food legislation.

6. PERFORMANCE INDICATOR

Applications for approval are dealt with within 7 days subject to all information being submitted with application.

POLICY:-	
Policy No:	
Policy Title:	Hawker/Peddler
Date Policy was adopted by Council:	
Resolution Number:	
Previous Policy Review Date:	25/2/2009 & 11/12/2013
Next Policy Review Date:	Nil
	Nil
PROCEDURES/GUIDELINES:-	
Date Procedure/Guideline (if any) was developed:	25 February 2009
	Nil
RECORDS:-	Nil
Container Reference in TRIM: Policy	SF090098 – C0913398
Container Reference in TRIM: Procedure	
Other locations of Policy:	Nil
Other locations of Procedures/Guidelines:	Nil
DELEGATION (if any):-	Nil
RESPONSIBILITY:-	Nil
Draft Policy developed by:	Director – Environment, Planning and Development
Committees (if any) consulted in the development of the Draft Policy:	Nil
Responsibility for Implementation:	Director – Environment, Planning and Development
Responsibility for Review of Policy:	Director – Environment, Planning and Development

INTEGRATED PLANNING FRAMEWORK:	
Community Strategic Plan:	Strategic Priority No.
Delivery Program Title:	
Operational Plan:	Program No.

Senior Authorising Officer	Position General Manager	Signature/Date (Signed and dated)
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ACTION	COUNCIL MEETING DATE	RESOLUTION NUMBER	REPORT ITEM NUMBER
NEW/RECONFIRMED/ AMENDED			
Was policy	2/10/1991	852	???

DATE REVIEWED	REVIEWER POSITION	REVIEWER NAME