



Activities Approval Policy

(Local Government Act 1993)



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Document Control

Policy	Activities on public land Policy	Policy Number	TBA
Author/Reviewer	Director Sustainable Growth	Review Period and Date	Reviewed within 12 months of election/4 yearly - September

This policy shall be reviewed: -

- This policy shall be reviewed within 12 months of an election, and thereafter at four yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.

Document History

Date	Status	Version	Resolution	Description
26 July 2017	Draft	0.1		Presented to Council for endorsement, public exhibition 28 days
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1. Introduction

The Activities Approval Policy (Local Government Act 1993), has been developed and adopted under Chapter 7, Part 3 of the *Local Government Act, 1993* (the Act). The Policy is designed to outline specific activities that may be carried out without the need to obtain approval from Council under certain circumstances. It also sets the criteria which Council will consider for those activities where approval from Council is required.

The Policy is divided into three parts:

Part 1: Exemptions from activity approvals

Part 2: Criteria for activity approvals

Part 3: Other matters relating to activity approvals

2. Aims and Objectives

The Policy aims to:

- Promote an integrated framework for dealing with activities carried out on public lands with clear guidelines.
- Specify circumstances where Council approval is not required before carrying out an activity.
- Clarify what activities on public land require approval from Council.
- Ensure consistency and fairness in the manner in which Council deals with applications for activity approvals.
- Make Council's policies and requirements for activity approvals readily accessible and understandable to the community.
- Support the vitality, amenity and economic viability of Hilltops townships.
- Ensure shop owners and tenants requirements, pedestrians and footpath activities can be safely and fairly accommodated.

3. Legislation

- *Local Government Act, 1993*
- *Roads Act, 1993*
- *Crown Lands Act, 1989*
- *Environmental Planning and Assessment Act, 1979*
- *Food Act, 2003*
- *Liquor Act, 2007*
- *Smoke-free Environment Act, 2000*
- *Anti-Discrimination Act, 1977*
- *Companion Animals Act, 1998*
- *Charitable Fundraising Act, 1991*
- *Work Health and Safety Act, 2011*



4. Approvals to which this policy applies

Activities on public land, such as displaying charity bins, footpath dining and the display of advertising or other materials, and activities on private land, such as carry out sewerage works, require approval under Section 68 of the *Local Government Act, 1993* from Council. Section 68 states that the following activities require approval:

Part A: Structures or places of public entertainment	
1.	Install a manufactured home, moveable dwelling or associated structure on land
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
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) 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.	Use a standing vehicle or any article for the purpose of selling any article in a public place
7.	Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations

This Policy applies to these activities and sets out the circumstances in which Council will not require an activity approval to be gained, and establishes where an activity approval will be required from Council.



Part 1: Exemptions from activity approvals

An activity may be exempt from the need to gain an activity approval where it meets determined standards. The activities that are exempt from approval are specified in **SCHEDULE 1**. This does not, however, prevent a person applying for approval to carry out an activity specified in the Schedule.

To be exempt from approval, the person carrying out an activity must comply with:

- The relevant exemption requirements listed in **SCHEDULE 1**; and
- The relevant standards prescribed by the *Local Government Act, 1993* and its Regulations, including the Building Code of Australia, Plumbing Code of Australia and Australia New Zealand Food Standards Code; and
- Any need to have public liability or other insurances in place to cover their activities.

The exemptions do not relate to Development Applications, Complying Development Certificates or approvals required under any other legislation.

Part 2: Criteria for activity approvals

This Part lists the criteria Council must take into consideration in determining an application under the *Local Government Act, 1993* or as required under Sections 125, 138 or 139A of the *Roads Act, 1993*.

Those pieces of legislation require that Council determining an activity application:

- (a) Can only approve an application where an activity complies with all relevant laws, standards and guidelines, including the Building Code of Australia, Plumbing Code of Australia and Australia New Zealand Food Standards Code; and
- (b) Must take into consideration any criteria in a local policy adopted by the council which are relevant to the subject matter of the application, and
- (c) Must take into consideration the principles of ecologically sustainable development; that is, using, conserving and enhancing the community's resources so that ecological processes are maintained, and the community wellbeing can be increased.

If no requirements are established and no criteria are adopted, Council is to:

- (a) Take into consideration, in addition to the principles of ecologically sustainable development, the likely impact of the activity, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, and
- (b) The public interest.

In considering the public interest, Council is to take into account:

- (a) Protection of the environment, and
- (b) Protection of public health, safety and convenience, and
- (c) Any items of cultural and heritage significance which might be affected.

General requirements

In order to achieve the objectives of this Policy, the following matters must be considered in addition to any matters prescribed by the regulations for the respective activity applications.

Applicants must ensure the application form and all other information is submitted. Incomplete applications will be rejected.



Each activity application will be considered on its merits and assessed against the criteria established in this Policy.

Public Liability insurance (to an amount determined appropriate by Council's Insurers at the time of application) which indemnifies Council against any claims which may be made as a result of use of public land must be held and renewed every year for the life of an approval.

An approval may not be granted on a footpath of a classified road (i.e. a highway or main road) or within its corridor for any activity, without the agreement of the NSW Roads and Maritime Services (RMS). Council will refer those activity applications to the RMS for their advice.

An approval may be cancelled at any time after it has been issued, in any of the following circumstances:

- (a) If the approval was obtained by fraud, misrepresentation or concealment of the facts;
- (b) For any failure to comply with a condition of approval; or
- (c) If the public land ceases to be used by the person having the benefit of the approval i.e. business closes or relocates.

Footpath display of goods

The following criteria will apply for any approval for the display of goods on the footpath. Goods for display or sale shall:

- Not extend more than 1000mm out from the building line;
- Not exceed 1200mm in height for goods and 1500mm for clothes racks;
- Ensure that at least 1.8 metres of the footpath is kept clear for pedestrian traffic (the pedestrian zone);
- Only be placed along the building line of the premises to which they relate;
- Only be placed on the footpath within shop/premises opening hours;
- Be structurally sound and designed to ensure it will not be blown/displaced by winds. Clothes racks shall be prevented from movement (either by locked wheels or a solid frame);
- Be non-illuminated (internally/externally);
- Not have sharp, pointed, jagged edges, corners or protrusions; and
- Not be affixed to any premises, footpath, parking control sign, street furniture or pole.

Footpath advertising signs

Approval may be granted for business owners (but not stallholders) to display portable advertising signs on the footpath directly in front of, the business premises. Such signs are to refer only to the business or to goods for sale at the business and must comply with the following:

- Not extend more than 1000mm out from the building line;
- Maximum height of 1200mm;
- Minimum height of 800mm;
- Ensure that at least 1.8 metres of the footpath is kept clear for pedestrian traffic (the pedestrian zone);
- Only be placed along the building line of the premises to which they relate, unless:
 - (i) the sign is located adjacent permanent street furniture (e.g. chairs or bins) or permanent structures (e.g. verandah posts), or
 - (ii) the sign is incorporated into an approved footpath dining area - see policy criteria below;
- Only be placed on the footpath within shop/premises opening hours;
- Be a colour that is easily distinguishable (to ensure it is easily seen and won't be a trip hazard);
- Be structurally sound and designed to ensure it will not be blown/displaced by winds;
- Be non-illuminated (internally/externally);
- Not comprise any moveable parts (e.g. spinning, flapping etc.);
- Be self-supporting and not rely on posts or chains to stabilize it,
- Not be affixed to any premises, footpath, parking control sign, street furniture or pole.



Advertising flags

Free-standing

“Teardrop’ flags whereby the flag surface is under tension and remains rigid (similar to those depicted in Figure 1) are permitted. ‘Feather Banners’, or other banners that are not rigid or tensioned, and flap around (similar to those depicted in Figure 2) are not permitted under the provisions of this document, subject to the following criteria.

Figure 1



Typical ‘Teardrop Flag’ design

Figure 2



Typical ‘Feather Flag’ design

- Not extend more than 1000mm out from the building line;
- Not exceed 2500mm in height;
- Maximum of two (2) free-standing flags are permitted for each premise;
- Ensure that at least 1.8 metres of the footpath is kept clear for pedestrian traffic (the pedestrian zone);
- Only be placed along the building line of the premises to which they relate;
- The flag must only display material which advertises the business being conducted on that premises;
- Flags shall be professionally made and be maintained in good condition;
- Each flag shall be adequately anchored and secured to ensure stability in wind gusts;
- Each flag shall be removed from the footpath at the close of trade each day,
- Not be affixed to any premises, footpath, parking control sign, street furniture or pole.



Wall-mounted flags

The following criteria will apply for any approval for the installation or display of a wall-mounted advertising flag located on, or overhanging, the footpath, as depicted in the following Figure 3.

Figure 3



Typical wall flag

- Not extend more than 1000mm out from the building line;
- Installed at a minimum height of 2000mm (no part of the structure or flag shall contravene this);
- Maximum of two (2) wall-mounted flags are permitted for each premises;
- The flag must only display material which advertises the business being conducted on that premises.
- Flags shall be professionally made and be maintained in good condition.
- Each flag shall be adequately anchored and secured to ensure stability in wind gusts.
- Each flag shall be removed from the footpath at the close of trade each day.

Footpath dining and structures

The following criteria will apply for any approval for footpath dining and structures (other than advertising signs) placed on the footpath.

- Council has established a number of alcohol free zones in accordance with Section 632A of the *Local Government Act, 1993* covering commercial areas and licenced premises. Service and consumption of alcohol on footpaths in these areas is prohibited;
- All furniture and other obstructions shall be located outside of the clear kerb zone in Table 1 below;

Table 1 - Clear Kerb Zone

On street parking direction	Clear kerb zone width (measured from front of kerb)
Parallel	600mm
Front in	920mm
Rear in	1200mm

- Ensure that at least 1.8 metres of the footpath is kept clear for pedestrian traffic (the pedestrian zone). Should table service be provided, all staff providing the service must provide right of way to pedestrians using the footpath;
- Outdoor dining areas are to be adjacent the premises to which they relate;
- Sound generating devices or amusement devices are not permitted as part of outdoor dining;
- All furniture is to be removed from the footpath when the business is not open to the public;
- The operator is to ensure the good conduct of patrons and that noise is kept to a minimum;
- Outdoor dining areas are to be maintained in a clean condition and kept free of litter;
- All outdoor dining areas are to be smoke-free;



Tables and Chairs

- Furniture is to be properly maintained and kept clean at all times;
- All furniture must be aesthetically suitable and involve a colour scheme and materials that are both practical and serviceable and in keeping with its surrounding area and shop front;
- All furniture is to be removed at the close of business;

Umbrellas

- Any umbrella to be used for outdoor dining on a public footpath is to be of non-reflective material.
- All umbrellas must maintain a minimum vertical clearance height of 2.1m from existing ground level;
- All umbrellas must be secured by a removable stand and weighted to ensure safety; and
- The number of umbrellas shall be limited to the number of approved tables.

Street stalls, raffles and collections

Eligible charitable or community organisations may apply to conduct street stalls at the following approved locations within the towns and villages of the Hilltops Local Government Area.

Boorowa: Shopfront (owner's permission required in writing) in Marsden or Pudman Streets.

Harden: Council's Neill Street kiosk, or Kruger Street Stall Centre.

Murrumburrah: Shopfront (owner's permission required in writing).

Young: Island outside Westpac building in Boorowa Street, or road blister outside SWS Credit Union building in Lynch Street.

Other areas: Public building such as a hall or shopfront (owner's permission required in writing).

In addition, street stalls must:

- Be located against the building frontage, unless otherwise approved;
- Display appropriate identification of the organisation on the stall, but no advertising;
- Not exceed two tables (card table size) and four chairs; and
- Not solicit sales and/or public collections, unless conducted in compliance with the *Charitable Fundraising Act, 1991*.

Part 3: Other matters relating to activity approvals

Exemptions

Any exemption under this Policy or the *Local Government Act, 1993* and its regulations, has no effect unless all the specified conditions of the exemption are met. Any breach of the conditions would mean that the exemption no longer applies to the activity involved. Exemption within the Policy cease to have effect once the Policy lapses.

Lodgement of an application

Most activities have a specific form and/or guide designed to assist in the lodgement 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 lodgement in accordance with Council's fees and charges.

An application may be rejected within 7 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.



Assessment of an application

In assessing 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.

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 an existing application.

A determination can be reviewed under s.100 of the *Local Government Act, 1993*. 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.

When does an approval lapse?

An approval under Section 68 of the *Local Government Act, 1993* lapses 1 year after the date from which the approval operates, unless the approval states otherwise. An extension of an approval may be granted if:

- (a) A request is received by Council in writing prior to the date on which the approval would have lapsed; and
- (b) Council determines that the approval should be extended.

Saving provisions

A person or business which holds a valid and operational activity approval from the former Councils of Boorowa, Harden or Young may continue to operate under that approval unless otherwise notified by Council.

Revocation

Under Section 165(4) of the *Local Government Act, 1993*, this Policy will be automatically revoked 12 months after the NSW local government elections, unless Council resolves to do so sooner.



SCHEDULE 1 – Exemptions

Activity	Exempt criteria
Part A: Manufactured homes, moveable dwellings and structures	
Manufactured home in a caravan park. 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.
Caravans, campervans or tents on any land. 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.
Caravans or campervans on land with an existing dwelling house. Clause 77(b)*	Installation of not more than 1 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.
Caravans or campervans on agricultural land for seasonal workers on the land. Clause 77(c)*	Installation of caravans or campervans on pastoral or agricultural land, so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.
Part B: Water supply, sewerage and stormwater drainage work	
Carry out water supply, stormwater drainage or sewerage works	<p>Water supply, stormwater drainage or sewerage works (excluding point of connection works involving Council's water and sewer services and/or works involving a septic tank, an effluent or a sullage disposal system) are exempt from the need for approval provided that it complies with the following criteria:</p> <ul style="list-style-type: none"> a) For the repair or replacement of existing plumbing and drainage works or stormwater drainage lines only; b) The work must comply with Council's Plumbing and Drainage Policy and the <i>Plumbing and Drainage Act, 2011</i>; and c) The work must not require the cutting or excavation of any public road, footpath or kerb and gutter and/or tree removal unless approved under Section 138 of the <i>Roads Act, 1993</i>. <p>In this Policy,</p> <ul style="list-style-type: none"> a) Sewerage work means the construction, alteration, extension, disconnection, removal, ventilation, flushing, cleansing, maintenance, repair, renewal or clearing of any sewerage service pipes or fittings or fixtures communicating or intended to communicate, directly or indirectly, with: a septic tank, an effluent or a sullage disposal system; or any sewer of a council, and includes work of sanitary plumbing and work of house drainage. b) Water supply work means the construction, alteration, extension, disconnection, removal, flushing, cleansing, maintenance, repair, renewal or clearing of any pipes or fittings of any water service communicating or intended to communicate, directly or indirectly, with any water main of a council, but does not include changing a washer. c) Stormwater drainage work means the construction, alteration, extension, disconnection, removal, maintenance, repair, renewal, flushing, cleansing or clearing of any stormwater drain communicating or intended to communicate, directly or indirectly, with any stormwater channel of a council.



Part C: Waste management	
Transport waste Clause 48(a)^	The transporting of waste over or under a public place for fee or reward if the activity is licensed under the <i>Protection of the Environment Operations Act, 1997</i> ; or the waste is being transported through the area of the Council and is not being collected or deposited in that area.
Place commercial waste in public	In accordance with the exemption given in Clause 48(b) of the <i>Local Government (General) Regulations 2005</i> , the placement of a commercial waste storage container in a public place is exempt from the need for approval provided that it complies with the following criteria: <ul style="list-style-type: none"> a) Must relate to an existing approved and lawful use; b) Maximum of one 240 litre bin and only where the waste collection area on private property is not accessible to the collection agency; c) Must be located so as to not disturb traffic flow, impede pedestrian movement, restrict driver sight lines, access or loading zones; d) Must not be offensive nor contain hazardous, liquid or clinical waste; e) May only be placed in a public place for collection by a waste contractor the night before the scheduled collection and must be removed as soon as possible and stored on private property. In the event of service disruption, containers must be stored on private property until the service can be provided; f) Commercial waste must be collected and disposed of by a commercial contractor. Waste cannot be removed from the premises to be disposed of in a street litter bin. g) All containers must be vermin proof and cleaned on a regular basis without causing storm water pollution; h) The area where the container is placed in public for collection must be kept cleaned; and i) Uncontained waste (such as plastic and cardboard) is not permitted to be placed next to or on top of containers in the public place.
Place domestic waste in public	In accordance with the exemption given in Clause 48(b) of the <i>Local Government (General) Regulations 2005</i> , the placement of a domestic waste storage container in a public place is exempt from the need for approval provided that it complies with the following criteria: <ul style="list-style-type: none"> a) Domestic waste must be contained in the Council approved waste storage containers and only placed in a public place for the purposes of collection by Council; b) Uncontained waste is not permitted to be placed next to or on top of containers in a public place; c) Waste storage containers may be put out for collection the night before the scheduled collection and must be removed from the public place as soon as possible and stored on private property; d) Waste storage containers must be placed immediately in front of the resident's property (or an approved service pick up point); e) Lids of waste storage containers must remain closed, and the container surrounds be kept tidy at all time; and f) Waste storage containers must be kept clean and free of stains, odours and debris; and in full working order with no cracks, missing wheels, lids or pins.



Part D: Community land	
Sound amplifying device or loudspeaker 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 by sports clubs.
Sports clubs charging a fee for spectators	Sports clubs with prior written approval from Council for the use of the associated sporting facility may charge a spectator fee to cover its commitments to a sporting association.
Part E: Public roads	
No exemptions.	
Part F: Other activities	
Domestic oil or solid fuel heating appliance 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 by a Construction Certificate or Complying Development Certificate under the <i>Environmental Planning and Assessment Act, 1979</i> .
Operation of a public car park 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.
Jumping castles and amusement devices Clause 71^	Amusement devices not required to be registered under the Work Health and Safety Regulation 2011 may be installed or operated without the prior approval of the Council if there is a contract of insurance or indemnity for the device that complies with Clause 74 (see below) of the Regulations, and be approved under Section 138 of the <i>Roads Act, 1993</i> , if the device is on or over a public road, including a footpath.
Small amusement devices Clause 75^	<p>A small amusement device may be installed or operated without the prior approval of the Council if:</p> <ul style="list-style-type: none"> 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, b) the device is registered under the <i>Work Health and Safety Regulation 2011</i>, c) 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, d) 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, e) there is in force a contract of insurance or indemnity for the device that complies with Clause 74 (see below) of the Regulations, f) be approved under Section 138 of the <i>Roads Act, 1993</i>, if the device is on or over a public road, including a footpath. <p>In this Policy, 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).</p>



Amusement devices public liability 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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** Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*

^ Local Government (General) Regulation 2005