On Public Exhibition

Markets Over Council Owned and Managed Land Policy

Exhibition period

13 November to 10 December

How to make a Submission

Submissions must be received in writing and addressed to
The Chief Executive Officer, Dharawal Country,
Locked Bag 155 Shellharbour City Centre, 2529
or sent by email to council@shellharbour.nsw.gov.au

PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE

The personal information contained in your submissions is collected by Shellharbour City Council for the purpose of corresponding with you about your submission. If you make an anonymous submission, Council will be unable to contact you further.

The information is intended for use by Council to assist in its decision making processes. The content of your submission may be summarised and attached to a Council Report and displayed on Councils website, your personal information will not be included. The submission will be stored in Council's electronic records management system. You can apply to Council to access and correct your personal information. Please see Council's Privacy Management Plan available on Council's website or contact Council's Privacy Officer on 4221 6111 for more information.

10.4.6 Endorsement of the Draft Markets Over Council Owned and Managed Land Policy for the Purposes of Public Exhibition

To the Chief Executive Officer

Directorate: Corporate Services
Business Unit: Technology and Corporate Services

Author: Lonell Wicks, Property Management Coordinator
Manager: Marcello Chiodo, Executive Manager Technology and Corporate Services
Approver: Scott Bridgement, Executive Director Corporate Services

Executive Summary

The purpose of this report is to seek Council endorsement of the Draft Markets Over Council Owned Managed Land Policy (Draft Policy) as shown in **Attachment 1**, and subsequently place the Draft Policy on public exhibition for a period of 28 days.

The exhibition and notification process is an opportunity for stakeholders and community members to provide feedback. This report recommends that should no valid opposing submissions be received during the exhibition process, the CEO be granted delegation to adopt the Draft Policy on behalf of Council. The Draft Policy will establish operational guidelines for Markets over Council owned land as shown in **Attachment 2.**

Recommendation

That:

1. Council endorse the draft Markets Over Council Owned and Managed Land Policy to be placed on public exhibition for a period of 28 days calling for submissions.

2. If no submissions are received as a result of public exhibition that are justifiable and require reconsideration, that Council adopt the Markets Over Council Owned and Managed Land Policy, as attached to this report.

This resolution is a policy position of Council.

Background

Council is committed to supporting local businesses, fostering community engagement, and creating vibrant public spaces. In line with this commitment, the proposed Draft Policy has been developed to provide a framework for the establishment and operation of markets on Council owned land.

The Draft Policy has several key objectives:

1. Support Local Business: To provide a platform for local businesses, artisans, and producers to showcase their products and services to the community.
2. Community Engagement: To encourage community participation and interaction by creating regular market events that bring residents and visitors together.
3. Economic Development: To stimulate economic activity by attracting visitors to our region, which will in turn benefit local businesses and stimulate job creation.
4. Environmentally Sustainable Practices: To ensure that markets are conducted in an environmentally responsible manner, with a focus on waste reduction and recycling.

Subject to the adoption of the Draft Policy, Council staff will commence an Expression Of Interest (EOI) to determine eligibility and work towards markets commencing in early 2024 (late summer). The EOI assessment criteria will include:

1. Environmental impacts – impact on environmental attributes including flora and fauna
2. Social impacts – impact on residential amenity, conflicts with other user groups and organisations, availability of land
3. Economic impacts – likely economic benefits and possible adverse impact to local businesses
4. Infrastructure impacts – demand for use of public infrastructure, capacity of infrastructure and potential impacts
5. Risk assessment – approach to the management of risks and stall holders ensuring the health and safety of patrons and stall holders and the general public.

Council Implications

FINANCIAL / RESOURCES

Preparation of the Draft Policy and Draft Guide have been resourced by Council staff. At present, there are no financial implications associated with

the preparation of the Draft Policy, or future adoption.

LEGISLATION AND POLICY (INCLUDING ADVOCACY, STRATEGIC AND OTHER PLANS)

Planning Approvals for Markets

There are a number of different approval pathways for markets or community events on public land within NSW. However, the planning approval requirements are complex and are consistently interpreted differently across the State.

The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) allows for the construction or installation of tents, marquees and booths used for a community event (including markets) as exempt development in certain circumstances. However, these provisions are regularly misunderstood and interpreted differently in different Local Government Areas. In an attempt to clarify the provisions of the Codes SEPP, the Department of Planning and Environment (DPE) released a Fact Sheet on the approval requirements for markets and community events which is provided as Attachment 3 to this report.

While the Fact Sheet confirms that markets and community events can be undertaken as exempt development, the approval requirements continue to be interpreted differently across the State. Therefore, in preparing the Policy, Council sought confirmation from DPE, who confirmed that markets can be held on public land without the need for a Development Application, provided the use of the land is consistent with the Plan of Management that applies to the land.

SOCIAL IMPACT

If adopted, the policy will enable Council to provide a space for commerce, as well as foster community and economic growth.

SUSTAINABILITY CONSIDERATIONS

Nil

LEGAL CONSIDERATIONS

If adopted, this will become a policy position of Council.

RISK CONSIDERATIONS

If the draft policy is adopted, Council will make transparent decisions when considering Markets over Council owned and managed land.

Link to Community Strategic Plan

This report supports the following objectives, strategies and actions of the Community Strategic Plan:

1.1 We inspire community spirit
1.1.1 Foster creativity and events that bring people together
1.1.1.01 Support and implement events and activations across the City
4.1 We deliver our future together
4.1.1 The community is meaningfully engaged and active in shaping the future of the city
4.1.1.01 Create meaningful conversations that result in active and connected community

Previous Council Resolutions (including type and date of meeting)

Not Applicable

Consultation

Internal

Executive Director Planning and Environment
Manager Community Engagement and Activation
Senior Community Planning Officer
Strategic Planner
Manager Asset Planning
Recreation Planner

External

Nil

Political Donations Disclosure

Not Applicable

Options

Option 1:
Council endorses the Draft Policy to be placed on public exhibition for a period of 28 days.

Option 2:
Council endorses the Draft Policy to be placed on public exhibition for a period of 28 days with any amendments considered appropriate.

Option 3:
That Council resolve to not endorse the public exhibition of the Draft Policy.

Conclusion

It is recommended that Council endorse the public exhibition of the Draft Policy as outlined in this report (Option 1). The exhibition and notification period will allow opportunities for stakeholder and community feedback.

Should no valid opposing submissions be received, it is recommended that the CEO be granted delegation to adopt the Draft Policy on behalf of Council.

If valid opposing submissions are received following the public exhibition, it is recommended that an updated report be submitted to Council. This report would detail the outcomes of the public exhibition and any changes to the documents, for final consideration of the Draft Policy.

Attachments

1. Draft Markets over Council Owned and Managed Land Policy
2. Schedule of Land
3. Factsheet Exempt Developments Community Events

Policy

DRAFT
Markets Over Council Owned and Managed Land Policy

Policy Owner: Executive Manager Technology and Corporate Services	
Date Last Adopted: [Date Adopted]	**Review Date: [Date for next Review]**

1. Policy Statement/Objective(s)

Shellharbour City Council (Council) is committed to providing transparent guiding principles to support a consistent approach in the approval and management of markets.

The objectives of this policy are:

1. Provide clear operational requirements for market operators to support their work.
2. Contribute to market operations that support the community and add value to our economy.

2. Scope

This policy applies to Council-owned and/or Council managed public land within the Shellharbour LGA, nominating locations where Council may consider approval for market operators under a licence or permit, with the locations listed in **Schedule 1**.

3. References

Local Government Act 1993
Local Government (General) Regulation 2021
Crown Land Management Act 2016
Native Title (New South Wales) Act 1994
Food Act 2003
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
Shellharbour City Council Property Strategy 2020-2030
Shellharbour City Council Community Strategic Plan 2022-2032
Leasing and Licensing on Council Public Land and Buildings Policy

4. External/Internal Consultations

[enter internal and external consultation sources]

5. Definitions

Term	Definition
Market	Market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.
Licence	refers to the permission from - Council to a specific person, operator or company to conduct a market on a designated public place.
Public reserve	refers to land provided for the use of the community including lands designated as public parks, reserves and sportsgrounds under the ownership of Council or Crown land managed by Council.
Expressions of Interest (EOI)	refers to a transparent process of seeking written interest from licence holders to operate on approved public places.

6. Policy

The purpose of this policy is to establish Council's approach to approving markets and the level of commitment it requires from market operators to achieve quality market operations.

It aims to facilitate well managed markets that provide economic and social benefits to support local businesses and the community.

7. Expression of Interest

To obtain approval to hold markets on the public places identified in **Schedule 1** of this policy, the market operator must enter into a licence agreement with Council, and an expression of interest (EOI) will take place with Council determining the EOI assessment criteria, which may include:

- Environmental impacts – impact on environmental attributes including flora and fauna
- Social impacts – impact on residential amenity, conflicts with other user groups and organisations, availability of land
- Economic impacts – likely economic benefits and possible adverse impact to local businesses
- Infrastructure impacts – demand for use of public infrastructure, capacity of infrastructure and potential impacts
- Risk assessment – approach to the management of risks and stall holders ensuring the health and safety of patrons and stall holders and the general public.

The licensee will be responsible for all reasonable costs associated with the preparation of the licence agreement in accordance with Council's fees, charges and the policy titled *Leasing and Licensing on Council Public Land and Buildings.*

8. Market Operating Restrictions

Markets with a combined area of less than 300m2 occupied by tents, marquees, or booths may occur without a Development Consent provided other requirements of *the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* can be met, but approval under this Policy is still required for markets on public land.

For further information on the restrictions of operations in accordance with the State Environmental Planning Policy, please refer to the relevant legislation: SEPP and Complying Development Codes

9. Attachments

Schedule 1 – Approved Locations To Operate Markets

Public Reserve	Property Description
Albion Park Showground	LOT: 26 DP: 1237947
Reddall Reserve	LOT: 16 SEC: A DP: 11044 LOT: 78 DP: 553511 LOT: 72 DP: 751290 LOT: 61 DP: 751299 LOT: 7310 DP: 751299 LOT: 101 DP: 1190717
Blackbutt Forest Reserve	LOT: 38 DP: 255657
Croom Sporting Complex	LOT: 2 DP: 219411 LOT: 302 DP: 1223037 LOT: 303 DP: 1223037 LOT: 304 DP: 1223037 LOT: 315 DP: 1223037 LOT: 316 DP: 1223037
Boonerah Point Reserve	LOT: 422 DP: 223827 LOT: 299 DP: 223828 LOT: 536 DP: 228535
Albion Oval	LOT: 250 DP: 775616
McDonald Park	LOT: 140 DP: 213767
Eric Creary Park	LOT: 97 DP: 15868 LOT: 2 DP: 218551 LOT: 5 DP: 218551 LOT: 2 DP: 526063
Harrison Park	LOT: 11 DP: 1029943

Shell Cove	LOT: 4022 DP: 1254658 LOT: 4023 DP: 1254658 LOT: 4024 DP: 1254658 LOT: 4025 DP: 1254658 LOT: 21 DP: 1255284 LOT: 4103 DP: 1258456 LOT: 4105 DP: 1260905 LOT: 4106 DP: 1260905 LOT: 9030 DP: 1264148 LOT: 4110 DP: 1289817

These locations are considered suitable market sites as they will activate public space, are complementary to the local amenity and have a level of connectivity to the character and identity of the local community.

Policy Authorised by:

Name: [Executive Leadership Team or Council Resolution Number]

Policy Authorised by:

Name: [Executive Leadership Team or Council Resolution Number]

Date: [Date adopted by ELT or Council Resolution]

DRAFT

1.ALBION PARK SHOWGROUND



2. REDDALL RESERVE



3. BLACKBUTT FOREST RESERVE



4. CROOM REGIONAL SPORTING COMPLEX



5. BOONERAH POINT



6. ALBION OVAL



7. HARRISON PARK



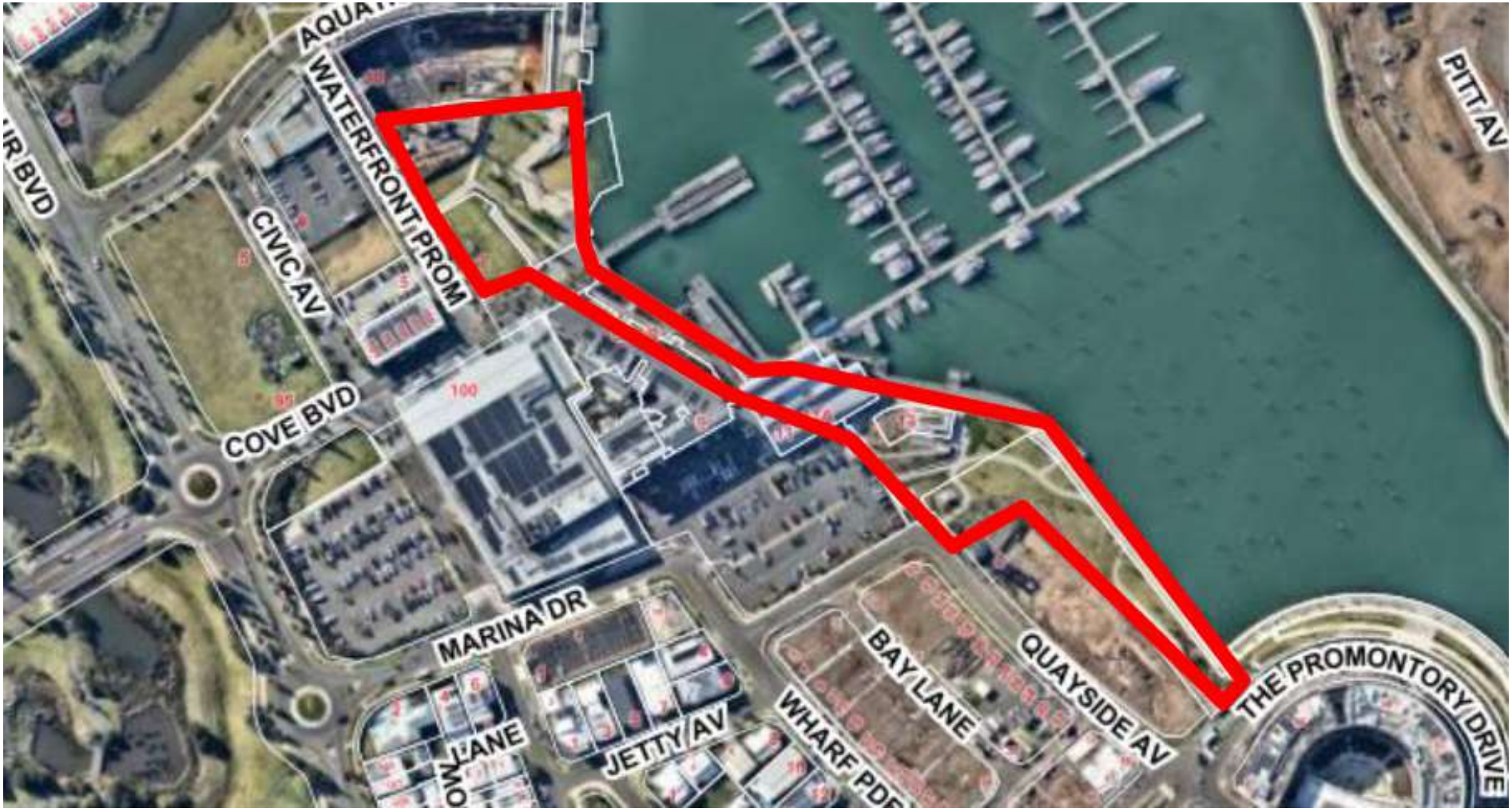
8. MCDONALD PARK



9. ERIC CREARY PARK

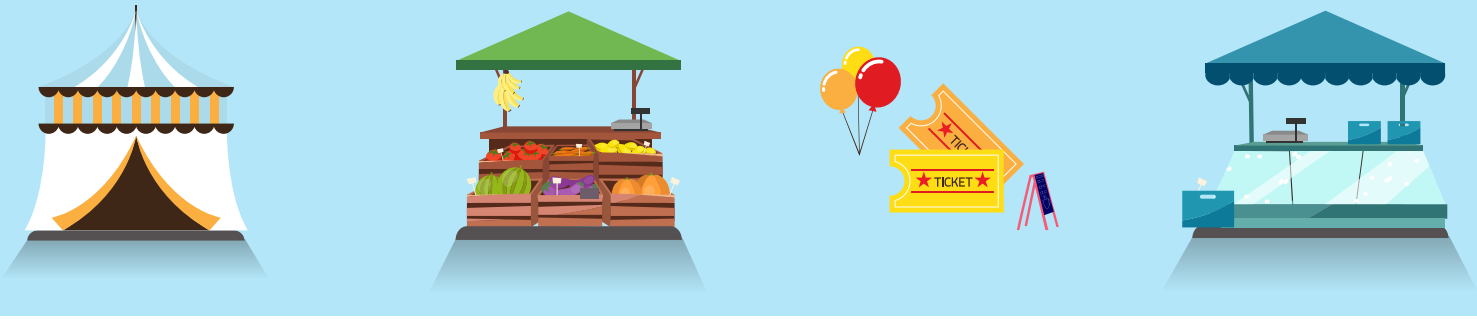


10. SHELL COVE



Running a temporary community event

Rules for exempt and complying development



Temporary uses for community events — tents, marquees and booths

This document answers frequently asked questions about what you need to do to set up a temporary community event under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Code).

What is the definition of a community event?

A community event is 'a function or event open to the public or section of the public that is a ceremony, cultural celebration, exhibition, fete, fair, gathering, market or sporting event'.

Do I need development consent to set up a temporary community event?

The Code allows you to hold a community event without getting planning approval from the council if you meet all the requirements in the Code. Also, you cannot hold the event on land that is used for residential accommodation and in a residential, rural, or environmental protection zone.

What development standards must I meet before I can hold my community event?

Clauses 2.108, 2.119 and 2.120 of the Code set out the list of development standards you must meet before you can set up and operate your community event.

These standards control the impact of your event on the environment and community. They include:

- You must have the written consent of the landowner.
- You must not restrict parking or access on the land where your event is taking place.
- You must ensure the protection of any trees on the land or adjacent land.
- You must make sure that your event does not redirect any water or sediment into neighbouring properties.
- You must make sure there is separation from rear and side boundaries, as per council standards.
- You must ensure that your temporary structures (booths, tents and the like) meet Australian Standards.
- You must have the right insurance cover for the event.

You should read this fact sheet in conjunction with our Exempt and complying development — FAQs

Running a temporary community event

Rules for exempt and complying development

How big can my tent, marquee or booth be?

The total floor area of all tents, marquees and booths for your community event must not exceed 300m².

To ensure people can move comfortably around the structures, you should provide at least 1.5 metres of circulation space.

The maximum wall height of tents and marquees is four metres, with an overall height of no more than six metres. You can find more information on the configuration requirements for tent, marquees and booths in Subdivision 7 of the Code.

When can I hold my community event?

Your event can take place from:

- 7.30am to 11.00pm on Monday, Tuesday, Wednesday or Thursday
- 7.30am to midnight on Friday or Saturday
- 8.00am to 8.00pm on Sunday

Event organisers must make sure no tent, booth or marquee remains on the site for more than seven days. They also need to make arrangements to remove the waste and recyclable materials that the event generates.

Things to consider	
✓	**Owner's consent from the:** • owner of the private property or land, or • council, if a public space or road
✓	**Council approval under Section 68 of the Local Government Act 1993 to carry out the following on community land:** • engage in a trade or business • direct or procure a theatrical, musical or other entertainment event for the public on community land • construct a temporary enclosure for the purpose of entertainment • play a musical instrument or sing on community land for a fee or reward • set up, operate or use a loudspeaker or sound-amplifying device on community land
✓	**NSW Food Authority regulates:** • guidelines for any requirements of the Food Act 2003 • appointment of a food safety supervisor — may be required if processing and selling certain food
✓	Notification to enforcement agencies — relevant council and NSW Food Authority
✓	Food Authority licence — certain activities listed in the Food Authority's guideline require a licence (for example, businesses that handle or process meat)

Restrictions	
⛔	Refer to the Code for any land-based exclusions or local variations that may apply to the land.

You should read this fact sheet in conjunction with our Exempt and complying development — FAQs

Running a temporary community event

Rules for exempt and complying development

What if I want to erect a stage or platform for my event?

If your community event requires a platform or stage, you must meet a number of development controls. You can find a full list of these in Clause 2.123 of the Code.

The platform or stage must:

- Be less than 50m².
- Be at least three metres from any boundary of the land.
- Be put up on the ground and be no more than two metres high.
- Have a notice indicating the actual distributed and concentrated load of the platform or stage.
- Be put up for no more than seven days and must be removed within two days after the event.

More information

Contact the Codes Hotline.
Tel: 02 8289 6600
Email: codes@planning.nsw.gov.au



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You should read this fact sheet in conjunction with our Exempt and complying development — FAQs