

63. ROADSIDE VENDING GENERAL POLICY

Intent

The intent of this policy is to provide clear objectives and guidelines for the issuing of approvals to carry out Roadside Vending Activities on roads under Douglas Shire Council Local Law No. 1 (Administration), Schedule 8, Commercial Use of Local Government Controlled Areas and Roads.

Scope

This policy shall apply to Roadside Vending Activities carried out on all Council and state-controlled roads within the Douglas Shire Council area. The policy does not include vending in parks or other Council controlled areas.

Definitions

TERM	DEFINITION
Products	An article or substance that is manufactured or refined for sale, can be goods or services.
Roadside Vending	<ul style="list-style-type: none"> (i) The commercial supply of goods or services (products) from a vehicle or place on a road; or (ii) The setting up on, or bringing onto a road of a stall, vehicle, equipment or other thing for the commercial supply of goods or services.
Produce	Agricultural and other natural products.

Provisions

General

- Any applicant wanting to undertake Roadside Vending on a State controlled road, must first seek approval from the Department of Transport and Main Roads before making application to Council;
- All new applications applied for under this Local Law that relate only to the selling of produce, by a primary producer - will be assessed by an Authorised Person in the Environment and Planning department;
- All new applications for anything other than **produce**, can only be approved by a Council resolution.

Requirement to Hold Approval

- A person must not carry out a Roadside Vending activity on a road unless authorised by an approval issued by the Douglas Shire Council.

Application for Approval

An application for approval must be made in accordance with the requirements of Local Law 1 (Administration) and must be accompanied by the following:-

1. Details of the nature, time, duration and place of the proposed activities for which the approval is sought;
2. A site plan showing the relevant part of the land to be used for the prescribed activity including boundaries of the site, the outline of the buildings, emergency exits, exclusion zones, trees, public facilities and infrastructure and other obstructions;
3. Details of the type of signage which is intended to be displayed and the method intended to be used to ensure stability of the signage;
4. If the activity is to operate from a vehicle, a copy of a current vehicle registration certificate; and
5. Details of all insurances relevant to the authority held by the person who will be undertaking the activity.
6. Whether the proposed activity would—
 - a. adversely affect existing services located in, on or over an area or road; or
 - b. be in conflict with or not in accordance with any local government policy relating to the activity at the time of the application.
7. Whether the applicant's proposed waste management strategy makes provision for the satisfactory collection, storage and removal of all waste generated by the proposed activity; and
8. Documented evidence that the applicant holds a public liability insurance policy.

Assessment of Application

- Assessment of all applications will be undertaken with reference to the Department of Main Roads guideline "Roadside Vending on State-controlled Roads".
- Sites where the proposed activity will potentially create water and dust problems will not be favoured.
- Proposed sites in any new application, unless otherwise approved by a Council resolution, must be a minimum of 1km from any existing retail businesses of a similar nature.

Unit Responsible for Administration

Environment and Planning – Local Laws.

Nature of produce Approved for Roadside Vending

Only the following categories of goods will be considered for approval under this policy:-

- Whole fruit, vegetables and flowers grown by the approval holder;
- Primary produce harvested by the approval holder e.g. whole/uncooked seafood;
- Any other products, as determined by Council resolution.

General Conditions of Approval

In issuing an approval, Council may impose conditions including: -

- (a) Reasonable access to local government staff or contractors must be permitted at all times.
- (b) The activity must be conducted in accordance with any standards of the local government applicable at the time of the approval.
- (c) The approval must be displayed in a way that is visible to the public whilst conducting the activity.
- (d) The approval must be produced for inspection on demand by an authorised person.

- (e) If the approval authorises the approval holder to use a specified part of a local government controlled area or road for carrying on a business—
 - (i) pay rental specified in the approval to the local government at specified intervals; and
 - (ii) maintain the area where the activity takes place in clean, tidy and orderly condition.
- (f) If the activity involves playing live or taped performances—
 - (i) a requirement that amplified music does not exceed a decibel limit determined by an authorised person.
- (g) If the activity involves use of a footpath—maintain a clear unobstructed pedestrian corridor of not less than 1.5 metres or, in the case of high usage footpaths, a distance greater than 1.5 metres stipulated in the approval.
- (h) The activity must only be conducted on the days and hours specified on the approval.
- (i) Maintain public liability insurance for an amount as determined by the local government covering the activity which indemnifies the local government in respect to any liability arising from the activity.
- (j) The approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the works or activity.
- (k) Pay any costs or expenses incurred by local government to rectify any damage caused by the activity.
- (l) Ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed.
- (m) Not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by the local government.

Environmental Health Conditions of Approval Where Proposal Involves the Sale of Food

- Where the application involves any food, other than whole fruit and vegetables, the applicant must hold a license to carry on a licensable food business under the *Food Act 2006*.
- An approval for Roadside Vending does not constitute an approval for the sale of food. Where it is proposed to sell food that constitutes the carry-on of a licensable food business then the applicant must satisfy the requirements of Council's Environmental Health Unit including, if necessary, submitting an application to carry on a licensable food business under the *Food Act 2006* and being granted a license.

Issue of Approval

The approval may be issued

- On an annual basis by financial year, OR
- On a pro-rata basis, as determined by Council.

Insurance

- The holder of the approval is to maintain public liability insurance for an amount as determined by the local government covering the activity which indemnifies the local government in respect to any liability arising from the activity.
- Such insurance policy must clearly indemnify the Douglas Shire Council and any person associated with the activity as well as the operator and any other person directly involved with the activity.
- Council may withhold issuing the approval until the copy of the insurance policy is provided.

Transfer of Approval

- The holder of an approval may, with the approval of Council, transfer the approval to another person. Such application for transfer must be made on an approved form, must comply with all conditions and must be accompanied with the transfer fee as set by Council resolution.

Policy Review

This policy is to be reviewed whenever legislation changes, or every 4 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

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Policy Department	Environment and Planning
Link to Corporate Plan	Inclusive Engagement, Planning and Partnerships
Revoked/Superseded	

This policy is to remain in force until otherwise determined by Council.