
T60. Trading Activities - Hawking and Vending on Public Reserves, Roads and Public Places

Title: Trading Activities – Hawking and Vending on Public Reserves, Roads and Public Places Policy

Policy No: T60

Keywords: Hawking, Trading, Vending

Responsible Officer: Deputy General Manager – Land Use and Sustainability

1. PURPOSE AND AUTHORITY

The purpose and overall objective of this policy is to set out Council's considered and adopted policy position with respect to trading activities, in particular, hawking and vending, on public reserves, public roads and other public places.

2. POLICY STATEMENT

Council acknowledges that whilst certain trading activities, in particular, hawking and vending, on public reserves, public roads and other public places can serve a useful public purpose, the activities need to be carefully controlled and regulated in the interests of public safety and convenience and overall amenity.

3. PRINCIPLES

The principles that follow are general guides to administrative decision-making. As such, the principles must not be automatically or inflexibly applied with a due, proper and genuine consideration of the merits of a particular case. Thus, even if an application or a case falls outside the "four corners" of this policy, but is otherwise legally permissible subject to an approval being given, the application or case must be considered on its merits, despite anything contained in this policy. To that end, any prohibition or restriction in this policy will not apply where a good case is made out that the prohibition or restriction ought not to apply, or ought to apply in a modified way, on the facts and circumstances of a particular case.

Subject to what is stated above:

- (a) That in respect of purely commercial activities applications be refused for the following reasons:-
 - (i) competition with existing shops;
 - (ii) commercial activities should only take place from commercially zoned premises.
- (b) That in respect of trading activities on reserves where the activity is organised by a Club or organisation for and on behalf of its members, and where such usage would not afford major conflict with existing food retailing establishments, such activities be permitted.
- (c) That in respect of restaurants on footpaths or trading activities in road reserves, applications be considered on merit where such activity will be adjacent to and operated in conjunction with a commercial activity established in commercially zoned premises.

(F. & G.P. 6.4.82)
(Confirmed 20.10.97)

- (d) That Council amend its existing policy in respect of trading activities on public reserves and public places to allow the establishment of fruit barrows and small commercial kiosks in selected locations within the Manly Council area on the basis of Council charging a commercial licence fee established by a licensed valuer or by public tender.

(O.M. 8.11.88)
(Confirmed 20.10.97)

4. SCOPE

This policy applies to all Council officials (including Councillors and Council staff and consultants engaged by Council) who are involved, directly or indirectly, in decision-making (including preparatory and recommendatory decision-making) with respect to the subject-matter of this policy.

Insofar as land is concerned, this policy applies to all public reserves, public roads and other public places in the Manly local government area on or from which boats operate or can be operated.

5. DEFINITIONS

See the Dictionaries at the end of the Local Government Act 1993 and the Roads Act 1993 for definitions of various terms and expressions used in this policy.

6. IMPLEMENTATION

This policy will be implemented without delay once adopted by Council. Upon adoption this policy will be entered into Council's policy register, made available online and provided to all staff and any other people directly affected by this policy.

Council and/or the General Manager may, during a civil emergency only, set aside any policy terms to ensure public safety.

7. MONITORING AND BREACHES

Regular monitoring of compliance with this policy, relevant legislation and Manly policies and procedures will be undertaken and documented by the responsible officer for this policy.

Breaches of this policy are considered to be breaches of Manly Council's Code of Conduct and therefore invoke the relevant sanctions outlined in that Code. Persons in breach of any legislation may be subject to relevant criminal action.

8. REPORTING

No specific reporting is required by this policy.

9. POLICY REVIEW

This policy is subject to regular review at a maximum interval as required by legislation, generally every two (2) years.

For the purposes of carrying out and giving effect to this policy, the General Manager may from time to time prepare, adopt or vary, and otherwise issue to Council staff, guidelines and directions relating to any aspect of this policy.

Any recognised change to relevant legislation; or directives or guidelines issued by agencies including the NSW Ombudsman and the Division of Local Government; or to Manly Council's related guidelines and procedures will activate an immediate review of this policy to ensure it remains current and aligned to best practice policies.

10. RELEVANT REFERENCES AND LEGISLATION

Local Government Act 1993
Local Government (General) Regulation 2005
Roads act 1993.
Roads (General) Regulation 2000.

11. RELEVANT COUNCIL POLICIES

Nil.

12. REVISION SCHEDULE

Minute No	Date of Issue	Action	Author	Checked by
PS53/11	2 May 2011	Periodic Review	Secretariat, Corporate Services	Manager, Administration
	June 2013	Comprehensive Review		General Counsel
PS16/14	3 March 2014	Periodic Review	OM CSS	Manager Governance