

# LOCAL APPROVALS POLICY

<b>QUALITY CONTROL</b>			
<b>TRIM REFERENCES</b>	D16/26160 - 11/660		
<b>RESPONSIBLE POSITION</b>	Executive Manager Planning and Community Safety		
<b>APPROVED BY</b>			
<b>REVIEW DATE</b>	September 2024	<b>REVISION NUMBER</b>	2
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## 1. INTRODUCTION

The Policy is a local approvals policy prepared and adopted under Chapter 7, Part 3 of the Local Government Act 1993 ('the Act').

The purpose of this Policy is to supplement provisions of the Act and the Local Government (General) Regulation 2005 by:

- Part 1: Specifying the circumstances in which a person is not required to obtain a particular approval from the Council.
- Part 2: Specifying criteria which the Council must consider when determining whether or not to grant approval to a particular activity.
- Part 3: Specifying other matters relating to such approvals that are not dealt with by the Act or Regulations.

## 2. POLICY OBJECTIVE

The Policy aims to:

- a) provide guidance for those participating in the local approvals process in the Broken Hill City Council local government area;
- b) specify the criteria which Council will take into consideration in determining applications for approval under the Local Government Act 1993; and
- c) specify any other matters relating to the approvals process under the Local Government Act 1993.

## 3. POLICY SCOPE

The Policy applies to all land within the Broken Hill City Council local government area. The Policy applies to approvals for the following activities which are listed in the Table to Section 68 of the Act.

## **SECTION 68 ACTIVITIES**

### **Part A – Structures or Places of Public Entertainment**

1. Install a manufactured home, moveable dwelling or associated structure on land.
2. (Repealed)
3. (Repealed)

### **Part B – Water Supply, Sewage and Stormwater Drainage Work**

1. Not applicable – Contact the water authority for approvals (Essential Water).
2. As above
3. As above
4. As above
5. Carry out stormwater drainage work.
6. Not applicable – Contact the water authority for approvals (Essential Water).

### **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. Not applicable – Contact water authority for approval.
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 (within the meaning of Section 68A).

### **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 or otherwise) 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.
3. (Repealed)

### **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. (Repealed)
7. Use a standing vehicle or any article for the purpose of selling any article in a public place.
8. (Repealed)
9. (Repealed)
10. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations.

#### **4. POLICY STATEMENT**

Section 68 of the Local Government Act 1993 lists those activities, which require approval under the Local Government Act 1993. The Broken Hill Local Environmental Plan 2013 (LEP) outlines those activities which require approval under the Environmental Planning and Assessment Act 1979.

Development activity often requires approval under both the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979. To improve approval procedures and increase efficiency, the opportunity exists for those who wish to do so, to obtain all required approvals relating to a development activity under both Acts in one simplified process.

Where an activity requires approval under the Local Government Act and the Environmental Planning and Assessment Act it may be applied for as part of the Development Application.

#### **What are other relevant documents?**

The following documents are related, either directly or indirectly, to the Policy:

- a) Local Government Act 1993 – particularly Chapter 7.
- b) Local Government (General) Regulation 2005.
- c) Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- d) Department of Local Government Practice Note 14 issued March 1996 titled Local Approvals Policies.
- e) Other legislation may also be applicable, depending on the type of activity involved, for example the Protection of the Environment Operations Act 1997, the Environmental Planning and Assessment Act 1979.

#### **4.1 PART 1 – EXEMPTIONS FROM THE NECESSITY TO OBTAIN APPROVAL**

- **Column 1** Outlines the activities for which approval is required under Section 68 of the Local Government (General) Regulation 2005
- **Column 2** Outlines where exemptions are provided under the Regulations.
- **Column 3** Outlines where exemptions are provided under this Policy.

If exemptions are not provided by either the Regulations or by this Policy or if exemption criteria cannot be met, approval from Council is required. Further exemptions may be provided under

Council's Local Environmental Plan (LEP) or under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 in respect of the need for approval under the Environmental Planning and Assessment Act 1979, as amended.

Column 1	Column 2 – Exemptions under the Regulation	Column 3 – Exemptions under the Policy
<b>Part A – Structures or Places of Public Entertainment</b>		
1. Install a manufactured home, moveable dwelling or associated structure on land.	Yes	No
2. Repealed	n/a	n/a
3. Repealed	n/a	n/a
<b>Part B – Water Supply, Sewage and Stormwater Drainage Work</b>		
1. Carry out water supply work.	Contact water authority	Contact water authority
2. Draw water from a council water supply or a standpipe or sell water so drawn.	Contact water authority	Contact water authority
3. Install, alter, disconnect or remove a meter connected to a service pipe.	Contact water authority	Contact water authority
4. Carry out sewage work.	Contact water authority	Contact water authority
5. Carry out stormwater drainage work.	No	Yes
6. Connect a private drain or sewer with a public drain or sewer under the control of a council or with a drain which connects with such a public drain or sewer.	Contact water authority	Contact water authority
<b>Part C – Management of Waste</b>		
1. For fee or reward, transport waste over or under a public place.	Yes	No
2. Place waste in a public place.	Yes	Yes
3. Place a waste storage container in a public place.	No	Yes
4. Dispose of waste into a sewer of the council.	Yes	No
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.	Yes	No
6. Operate a system of sewage management (within the meaning of Section 68A)	Yes	No
<b>Part D – Community Land</b>		
1. Engage in a trade or business.	No	No
2. Direct or procure a theatrical, musical or other entertainment for the public.	No	No
3. Construct a temporary enclosure for the purpose of entertainment.	No	No
4. For fee or reward, play a musical instrument or sing.	No	No
5. Set up, operate or use a	Yes	Yes

loudspeaker or sound amplifying device.		
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<b>Column 1</b>	<b>Column 2 – Exemptions under the Regulation</b>	<b>Column 3 – Exemptions under the Policy</b>
6. Deliver a public address or hold a religious service or public meeting.	No	No
<b>Part E – Public Roads</b>		
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.	No	No
2. Expose or allow to be exposed (whether for sale or otherwise) 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.	No	Yes
3. (Repealed)	n/a	n/a
<b>Part F – Other Activities</b>		
1. Operate a public car park.	Yes	No
2. Operate a caravan park or camping ground.	No	No
3. Operate a manufactured home estate.	No	No
4. Install a domestic oil or solid fuel heating appliance, other than a portable appliance.	Yes	Yes
5. Install or operate amusement devices.	Yes	No
6. (Repealed)	n/a	n/a
7. Use a standing vehicle or any article for the purpose of selling any article in a public place.	No	No
8. (Repealed)	n/a	n/a
9. (Repealed)	n/a	n/a
10. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations.	No	No

#### 4.1.1 Part A – Structures or Places of Public Entertainment

##### 4.1.1.1 Install a manufactured home, moveable dwelling or associated structure on land

###### Exemptions provided under the Regulations

The following exemptions are provided by the Regulations for these activities:

<b>Activity</b>	<b>Regulation</b>
Installation of moveable dwellings and associated structures in caravan parks and camping grounds, provided the structure is designed, constructed and installed in accordance 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.	Clause 74 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
Installation of not more than two caravans, campervans or tents on any land, so long as they are not occupied for more than two days at a time and are not occupied for more than 60 days (in total) in any single period of 12 months.	Clause 77(a) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
Installation of not more than one 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.	Clause 77(b) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
Installation of a caravan or campervan on pastoral or agricultural land, so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.	Clause 77(c) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
Installation of a caravan, campervan or tent on Crown reserves or on land that is reserved or dedicated under the Forestry Act 1916.	Clause 78 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

If the above exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

#### **4.1.2 Part B – Water Supply, Sewage, Sewage and Stormwater Drainage Works**

##### **4.1.2.1 Carry out stormwater drainage work**

###### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

The following exemptions are provided for these activities under this Policy:

<b>Activity</b>	<b>Exemption Requirements/Conditions</b>
Carry out stormwater drainage work	All plumbing and drainage work shall be carried out to the requirements of AS/NZS 3500 and the National Construction Code (Plumbing Code of Australia).

If the exemption criteria provided by this Policy cannot be met, consent is required from Council.

#### **4.1.3 Part C – Management of Waste**

##### **4.1.3.1 For fee or reward, transport waste over or under a public place**

###### Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

<b>Activity</b>	<b>Regulation</b>
The transporting of waste over or under a public place for fee or reward if: <ul style="list-style-type: none"><li>i. the activity is licenced under the Protection of the Environment Operations Act 1997, or</li><li>ii. the activity is being carried out in the Sydney metropolitan area as defined in Part 3 (Interpretative provisions) of Schedule 1 to that Act, or</li><li>iii. the waste is being transported through the area of the council and is not being collected or deposited in that area.</li></ul>	Clause 48(a) of the Local Government (General) Regulation 2005

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council.



#### 4.1.3.2 Place waste in a public place

##### Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

Activity	Regulation
The placing of waste in a public place, if is done in accordance with arrangements instituted by the Council.	Clause 48(b) of the Local Government (General) Regulation 2005

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

##### Exemptions provided under this Policy

The following exemptions are provided for these activities under this Policy:

Activity	Exemption Requirements/Conditions
Place waste in a public place	<p>The placing of waste or recyclable materials in a public place may be carried out if it is in accordance with arrangements instituted by the Council.</p> <p>NOTE: At the time of printing the only arrangements instituted by Council for the placing of waste or recyclable materials in a public place are:</p> <ul style="list-style-type: none"> <li>a) to allow residents to place mobile garbage bins or recycling bins on the footpath for collection by Council's solid waste and recycling collection service; and</li> <li>b) to provide street litter bins into which the public may deposit litter.</li> </ul>

If the exemption criteria provided by this Policy cannot be met, consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

### 4.1.3.3 Place a waste storage container in a public place

#### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

#### Exemptions provided under this Policy

The following exemptions are provided for these activities under this Policy:

Activity	Exemption Requirements/Conditions
Place a waste storage container in a public place	<p>The placing of waste or recyclable materials in a public place may be carried out if it is in accordance with arrangements instituted by the Council.</p> <p>NOTE: At the time of printing the only arrangements instituted by Council for the placing of waste or recyclable materials in a public place are:</p> <ul style="list-style-type: none"> <li>a) to allow residents to place mobile garbage bins or recycling bins on the footpath for collection by Council's solid waste and recycling collection service; and</li> <li>b) to provide street litter bins into which the public may deposit litter.</li> </ul>

If the exemption criteria provided by this Policy cannot be met, consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

### 4.1.3.4 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility

#### Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

Activity	Regulation
<p>The installation, construction or alteration of a waste treatment device, if that installation, construction or alteration is done:</p> <ul style="list-style-type: none"> <li>I. under the authority of a licence in force under the Protection of the Environment Operations Act 1997, or</li> <li>II. in a vessel used for navigation, or in a motor vehicle registered under the Road Transport (Vehicle Registration) Act 1997 that is used primarily for road transport.</li> </ul>	<p>Clause 48(e) of the Local Government (General) Regulation 2005</p>

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

**4.1.3.5 Operate a system of sewage management (within the meaning of Section 68A)**

Exemptions provided under the Regulations.

The following exemptions are provided by the Regulations:

Activity	Regulation
<p>So much of the operation of a system of sewage management as is limited to an action carried out:</p> <ul style="list-style-type: none"> <li>i. under the authority of a licence in force under the Protection of the Environment Operations Act 1997, or</li> <li>ii. in a vessel used for navigation, or in a motor vehicle registered under the Road Transport (Vehicle Registration) Act 1997 that is used primarily for road transport.</li> </ul>	<p>Clause 48(f) of the Local Government (General) Regulation 2005</p>
<p>Despite the other provisions of this Regulation, a person who purchases (or otherwise acquires) land on which any sewage management facilities are installed or constructed may operate a system of sewage management without the approval required under section 68 of the Act for the period of three months after the date on which the land is transferred or otherwise conveyed to the person (whether or not an approval is in force, as at that date, in relation to the operation of a system of sewage management on that land).</p> <p>Further, if the person duly applies, within the period of 2 months after the date on which the land is transferred or otherwise conveyed to the person, for approval to operate the system of sewage management concerned, the person may continue to operate that system of sewage management without approval until the application is finally determined.</p>	<p>Clause 47 of the Local Government (General) Regulation 2005</p>

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council.

#### **4.1.4 Part D – Community land**

##### **4.1.4.1 Engage in a trade or business**

###### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

##### **4.1.4.2 Direct or procure a theatrical, musical or other entertainment for the public**

###### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

##### **4.1.4.3 Construct a temporary enclosure for the purpose of entertainment**

###### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

##### **4.1.4.4 For fee or reward, play a musical instrument or sing**

###### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

###### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

#### **4.1.4.5 Set up, operate or use a loudspeaker or sound amplifying device**

##### Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

<b>Activity</b>	<b>Regulation</b>
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 (as the case may be), in Part 1 of the local approvals policy applying to the land. See exemptions provided under this policy below.	Clause 49 of the Local Government (General) Regulation 2005

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

##### Exemptions provided under this Policy

The following exemptions are provided for these activities under this Policy:

<b>Activity</b>	<b>Exemption Requirements/Conditions</b>
Set up, operate or use a loudspeaker or sound amplifying device	The loudspeaker or sound amplifying device is set up, operated or used on community land if it is in accordance with a Notice on that land permitting the activity.

If the exemption criteria provided by this Policy cannot be met, consent is required from Council.

#### **4.1.4.6 Deliver a public address or hold a religious service or public meeting**

##### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

##### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

#### **4.1.5 Part E – Public Roads**

##### **4.1.5.1 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**

##### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

**4.1.5.2 Expose or allow to be exposed (whether for sale or otherwise) 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**

Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

The following exemptions are provided for these activities under this Policy:

<b>Activity</b>	<b>Exemption Requirements/Conditions</b>
Under awning advertising sign	<ul style="list-style-type: none"><li>a) The sign is attached below the awning of a building within Business or Industrial zones under the Broken Hill Local Environmental Plan.</li><li>b) The sign is to be erected approximately horizontal to the ground and at no point less than 3.0 metres from the ground/footpath level.</li><li>c) The sign shall not project beyond the edge of the awning. The awning to which the sign is attached is structurally adequate to maintain the additional load placed upon it.</li></ul>

If the exemption criteria provided by this Policy cannot be met, consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

**4.1.6 Part F – Other activities**

**4.1.6.1 Operate a public car park**

Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

<b>Activity</b>	<b>Regulation</b>
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.	Clause 66 of the Local Government (General) Regulation 2005

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council.

**4.1.6.2 Operate a caravan park or camping ground**

Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

**4.1.6.3 Operate a manufactured home estate**

Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

**4.1.6.4 Install a domestic oil or solid fuel heating appliance, other than a portable appliance**

Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

<b>Activity</b>	<b>Regulation</b>
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 under Part 4A of the Environmental Planning and Assessment Act 1979.	Clause 70 of the Local Government (General) Regulation 2005

If the exemption criteria provided by the Regulations cannot be met, see below for exemption criteria provided by this Policy.

Exemptions provided under this Policy

The following exemptions are provided for these activities under this Policy:

<b>Activity</b>	<b>Exemption Requirements/Conditions</b>
<p>Install a domestic oil or solid fuel heating appliance, other than a portable appliance.</p>	<p>a) The flue/chimney height is to be 1 metre above any other building within a 15 metre radius. The flue height is to be at least 4.6 metres above floor level.</p> <p>b) Installation is to be in accordance with:</p> <ul style="list-style-type: none"> <li>o The National Construction Code (Building Code of Australia).</li> <li>o AS 2918: Domestic Solid Fuel Burning Appliances and Installation.</li> <li>o NSW Department of Environment and Conservation's publication <i>Environmental Guidelines for Selecting, Installing and Operating Domestic Solid Fuel Heaters</i>.</li> </ul> <p>c) The heater must comply with the emission controls stated in AS 4013:</p> <ul style="list-style-type: none"> <li>o Domestic Solid Fuel Burning Appliances - Methods for determination of flue gas emission.</li> </ul> <p>d) Must not cause a smoke or odour nuisance to adjoining or nearby properties.</p>

If the exemption criteria provided by this Policy cannot be met, consent is required from Council.



#### 4.1.6.5 Install or operate amusement devices

##### Exemptions provided under the Regulations

The following exemptions are provided by the Regulations:

Activity	Regulation
<p>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.</p>	<p>Clause 71 of the Local Government (General) Regulation 2005</p>
<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"> <li>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, and</li> <li>b) the device is registered under the Work Health and Safety Regulation 2011, and</li> <li>c) the device: <ul style="list-style-type: none"> <li>i. is to be or has been erected, and</li> <li>ii. it to be or is being operated, in accordance with all conditions (if any) relating to its erection or operation set out in the current certificate of registration issued for the device under that Regulation, and</li> </ul> </li> <li>d) there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and</li> <li>e) in the case of a device that is to be or is installed in a building, fire egress is not obstructed, and</li> <li>(f) there is 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.</li> </ul>	<p>Clause 75 of the Local Government (General) Regulation 2005</p>

##### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

#### **4.1.6.6 Use a standing vehicle or any article for the purpose of selling any article in a public place**

##### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

##### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

#### **4.1.6.7 Carry out activity prescribed by the regulations or an activity of a class or description prescribed by the regulations**

##### Exemptions provided under the Regulations

No exemptions are provided for this activity under the Regulations; see below for exemption criteria provided by this Policy.

##### Exemptions provided under this Policy

No exemptions are provided for this activity under this Policy therefore consent is required from Council. See Section 4.2 for specific requirements for the submission of an application and for matters which Council will take into consideration when considering such an application.

## **4.2 PART 2 – CRITERIA COUNCIL MUST CONSIDER WHEN DETERMINING APPLICATIONS**

### **4.2.1 The Approvals System**

There are three levels to the NSW approvals system. The first level consists of the primary legislation being the Environmental Planning and Assessment Act 1979 and Local Government Act 1993.

The second level is the regulations made under the Environmental Planning and Assessment Act 1979 and Local Government Act.

The third level is Council Policies, Guidelines and Codes, including this document. Council must consider various matters in each level of the approvals system when it determines applications for development activity as listed in the sections below.

#### **4.2.1.1 Level 1 - Legislative Criteria**

The following legislation sets out the main issues which must be considered in assessing applications:

- Section 89 of the Local Government Act 1993 and the Local Government (General)
- Regulation 2005, together with the National Construction Code (Building Code of Australia) and related Australian Standards.

#### **4.2.1.2 Level 3 - Council Policies**

The following Council documents also include criteria for the assessment of development activity and will be considered as part of the Local Approvals Policy:

- Food Hawker and Vendor Regulations
- Footpath Restaurant Settings
- Shop Front Display & Moveable Signs
- Procedure for the issue of General Permits and Permission for Street Activities
- Community Markets Policy

**NOTE:** Above policies are not contained within the Local Approvals Policy. A copy of these documents will need to be obtained by the applicant from Council.

The following external documents adopted by Council include criteria for the assessment of development activity and will be considered as part of the Local Approvals Policy:

- Australian Standard AS4674-2004 Design, Construction and Fitout of Food Premises
- NSW Food Authority – Guidelines for Mobile Food Vending Vehicles
- NSW Food Authority – Guidelines for Food Businesses at Temporary Events

**NOTE:** The above documents are not contained within the Local Approvals Policy. A copy of these documents will need to be obtained by the applicant from external sources.

#### **4.2.2 General matters for consideration under Regulations**

The regulations made under the Local Government Act 1993 prescribe a number of matters that must be considered by Council when dealing with an activity application, as detailed under the respective headings below:

##### **4.2.3 Part B – Water supply, sewage, sewage and stormwater drainage works**

1. Carry out water supply work – Not relevant to Broken Hill City Council
2. Carry out sewage work - Not relevant to Broken Hill City Council
3. Carry out stormwater drainage work

#### Consideration Criteria

Clause 13 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council as follows:

*'The council must not approve an application for an approval allowing water supply, sewage or stormwater drainage work to be carried out unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards set out or referred to in Part 2 of Schedule 1 and with any other applicable standards or requirements set out or referred to in this Regulation'.*

Clause 15 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council as follows:

*(1) This clause applies to the following activities:*

- (a) carrying out water supply work,*
- (b) drawing water from the council water supply or a standpipe,*
- (c) installing, altering, disconnecting or removing a water meter connected to a service pipe,*
- (d) carrying out sewage work,*
- (e) carrying out stormwater drainage work.*

(2) *In determining an application for the purposes of section 68 of the Act for an approval to do any of the activities to which this clause applies, the Council must have regard to the following considerations:*

- (a) the protection and promotion of public health,*
- (b) the protection of the environment,*
- (c) the safety of its employees,*
- (d) the safeguarding of its assets,*
- (e) any other matter that it considers to be relevant in the circumstances.*

Part 2 of Schedule 1 of the Local Government (General) Regulation 2005 specifies mandatory that water supply work or sewage work that is plumbing and drainage work within the meaning of the *Plumbing and Drainage Act 2011* must comply with that Act and the regulations under that Act. Any water supply work or sewage work that is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the National Construction Code (Plumbing Code of Australia).

#### **4.2.4 Part C – Management of waste**

##### **4.2.4.1 Place a waste storage container in a public place**

###### Consideration Criteria

Clause 27 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council as follows:

*In determining an application for approval to place on a road a building waste storage container, the council is to take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to the council from time to time by the Roads and Traffic Authority.*

#### **4.2.5 Part C – Management of waste**

##### **4.2.5.1 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility**

###### Consideration Criteria

Clause 29 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council as follows:

- 1) In determining an application for approval to install, construct or alter a sewage management facility, the council must take into consideration the matters specified in this clause.*
- 2) Environment and health protection matters.*
- 3) The council must consider whether the proposed sewage management facility (or the proposed sewage management facility as altered) and any related effluent application area will make appropriate provision for the following:*
  - a) preventing the spread of disease by micro-organisms,*
  - b) preventing the spread of foul odours,*
  - c) preventing contamination of water,*
  - d) preventing degradation of soil and vegetation,*
  - e) discouraging insects and vermin.*

- 4) *Ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned, the re-use of resources (including nutrients, organic matter and water), the minimisation of any adverse impacts on the amenity of the land on which it is installed or constructed and other land in the vicinity of that land.*
- 5) *Guidelines and directions*

The council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the matters referred to in subclause (2).

#### **4.2.6 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 or otherwise) 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.

##### Consideration Criteria

Clause 50 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council as follows:

*In determining an application for an approval under Part E of the Table to section 68 of the Act the council must take into account:*

- a) *the provisions of the Roads Act 1993, and*
- b) *any relevant standards and policies of public authorities applying to the use of the road.*

#### **4.2.7 Part F – Other activities**

##### **4.2.7.1 Operate a public car park**

##### Consideration Criteria

Clause 53 of the Local Government (General) Regulation 2005 specifies matters that must be taken into consideration by Council as follows:

*In determining an application for approval to operate a public car park the council is to take the following matters into consideration:*

- a) *the roads and traffic authorities views about the application,*
- b) *the effect of the car park on the movement of vehicular traffic and pedestrian traffic,*
- c) *whether the number of vehicles proposed to be accommodated is appropriate having regard to the size of the car park and the need to provide off-street parking facilities within the car park for the temporary accommodation of vehicles,*
- d) *whether the means of ingress and egress and means of movement provided or to be provided within the car park are satisfactory,*
- e) *whether there will be adequate provision for pedestrian safety and access for people with disabilities,*
- f) *whether the internal design of parking facilities and system of traffic management are satisfactory,*
- g) *whether, in the case of a car park that is a building, adequate ventilation is provided or to be provided,*

- h) *the Work Health and Safety Act 2011, and the regulations made under that Act, as regards the safety of persons who will be employed at the proposed car park or of persons who will go there,*
- i) *whether there will be adequate provision for the management of stormwater and the minimisation of stormwater pollution.*

#### **4.2.8 Part F – Other activities**

##### **4.2.8.1 Operate a caravan park or camping ground**

###### Consideration Criteria

The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 contains mandatory requirements for the operation of a caravan park and camping ground. As a result, Council will evaluate all relevant activity applications to ensure that:

- a) Supporting plans and documents clearly demonstrate an intention to comply with the requirements of the regulation.
- b) Where such an intention is not demonstrated, an assessment will be made of whether it is feasible for the applicant to comply and hence whether it is appropriate to issue a conditional approval or hold the application pending the supply of the necessary information.

##### **4.2.8.2 Application requirements and general matters for consideration under this Local Approvals Policy**

Under the terms of this Local Approvals Policy, the following matters must be considered in addition to any matters prescribed by the regulations for the respective activity applications.

**NOTE:** For an application to be acceptable to Council the application must contain all of the information and documents required by:

- a) The Local Government Act 1993 as amended and the Regulations made thereunder;
- b) The provisions of this section; and
- c) The Environmental Planning and Assessment Act 1979 (where applicable).

Applications not meeting these requirements will be deemed by Council as "containing insufficient information" and therefore unacceptable pursuant to Section 86 of the Local Government Act 1993 as amended. Such applications will not be dealt with until all of the required information and documents have been submitted to Council.

## 4.2.9 Part A – Structures or Places of Public Entertainment

### 4.2.9.1 Install a manufactured home, moveable dwelling or associated structure on land

#### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for the installation of manufactured homes, moveable dwellings and associated structures on land; and
- b) The matters that Council will take into consideration when determining applications to install manufactured homes, moveable dwellings and associated structures.

#### Applications

Applications to install a manufactured home, moveable dwelling or associated

Structure shall:

- a) Be made on the appropriate application form, or by a letter or other document containing all of the information required by the Local Government Act 1993, as amended, the Regulations made thereunder and the Broken Hill City Council Local Approvals Policy to enable Council to properly consider and determine the application;
  - i. **NOTE:** This approval may be obtained as part of the Development Application,
  - ii. required under the Environmental Planning and Assessment Act 1979.
- b) Be accompanied by the relevant fees, charges and security deposits listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges;
- c) Be made by the owner or a person authorised by the owner in writing;
- d) Be accompanied by a plan showing the proposed location of the manufactured home, moveable dwelling or associated structure and its relationship to:
  - i. The boundaries of the property;
  - ii. Any roads or footways on the land;
  - iii. Other manufactured homes, moveable dwellings or associated structures on the land; and
  - iv. Any permanent or temporary structure on the land.
- e) Be accompanied by Plans and Specifications showing:
  - i. Floor plan of the manufactured home, moveable dwelling or associated structure showing dimensions;
  - ii. Details of amenities such as water supply, gas supply, electricity supply, waste disposal, laundry facilities, toilet facilities, shower facilities and cooking facilities.
- f) Be accompanied by details of how the manufactured home, moveable dwelling or associated structure is to be secured on the proposed site; and
- g) Any additional information required to be submitted with the Development Application under the Environmental Planning and Assessment Act 1979.

#### Matters Council will take into consideration

When determining an application to install a manufactured home, moveable dwelling or associated structure Council will take into consideration:

- a) Whether all of the information required to enable Council to properly consider and determine the application has been submitted;
- b) Whether all of the relevant fees, charges and security deposits listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993 as amended, and in particular, those matters prescribed in Section 89 of that Act;
- d) The provisions of any other relevant Statute or Regulation;
- e) Any applicable standards that are specified in the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005;
- f) Whether adequate provision has been made to ensure the health, safety and convenience of the occupants of any moveable dwelling or associated structure;
- g) Whether Development Consent pursuant to the provisions of the Environmental Planning and Assessment Act 1979, as amended, is required prior to an approval being granted pursuant to Chapter 7 of the Local Government Act 1993, as amended, and if so, whether such Development Consent has been granted; and
- h) Any other matter that Council considers relevant in the particular case.

#### **4.2.10 Part C – Management of waste**

##### **4.2.10.1 Place waste in a public place**

###### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications to place waste in a public place; and
- b) The matters Council will take into consideration when determining applications to place waste in a public place.

###### Applications

Applications to place waste in a public place shall:

- a) Be made on the appropriate application form, or by a letter or other document containing all of the information required to enable Council to properly consider and determine the application;
- b) Be accompanied by the relevant fees, charges and security deposits listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges;
- c) Be accompanied by a site plan, drawn to scale, showing the location where it is proposed to place waste in a public place;
- d) Be accompanied by Plans and Specifications, reports, standards and such other documents as Council deems necessary in the particular case to enable Council to give appropriate consideration to the application; and
- e) Be accompanied by any other information considered necessary by Council in the particular case.



#### Matters Council will take into consideration

When determining an application to place waste in a public place Council will take into consideration:

- a) Whether all of the information required to enable Council to properly consider and determine the application has been submitted to Council;
- b) Whether all of the relevant fees, charges and security deposits listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993, as amended, and in particular Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005, and in particular Division 4 of Part 2 of that Regulation;
- e) The provisions of the Roads Act 1993 and the Regulations made thereunder;
- f) The provisions of any relevant Statute or Regulation;
- g) The safety of the public and the protection of property; and
- h) Any other matter that Council considers relevant in the particular case.

#### **4.2.10.2 Place a waste storage container in a public place**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications to place a waste storage container in a public place; and
- b) The matters Council will take into consideration when determining applications to place a waste storage container in a public place.

##### Applications

The Application to place a waste storage container in a public place shall:

- a) Be made on the appropriate application form, or by a letter or other document containing all of the information required to enable Council to properly consider and determine the application;
- b) Be accompanied by the relevant fees, charges and security deposits listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges;
- c) Be accompanied by a site plan, drawn to scale, showing the proposed location of the waste storage container;
- d) Be accompanied by Plans and Specifications showing the design, type and location of any structure or structures to be used to prevent public access to the waste storage container and the type, design and location of any proposed signs, warning lights or other safety equipment;
- e) Be accompanied by a statement providing details of:
  - i. The days on which it is proposed to have the waste storage container in the public place; and
  - ii. Any public risk insurance policy available to indemnify Council and the applicant against claims; and
- f) Be accompanied by any other information deemed necessary by Council in the particular case.

#### Matters Council will take into consideration

When determining an application to place a waste storage container in a public place

Council will take into consideration:

- a) Whether all of the information required to enable Council to properly consider and determine the application has been submitted to Council;
- b) Whether all of the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993 as amended, and in particular Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005;
- e) The provisions of the Roads Act 1993 and the Regulations made thereunder;
- f) The effect that the waste storage container and any barricades or structures erected
  - i. to prevent public access to the container will have on pedestrian movements in the vicinity of the waste storage container,
  - ii. and whether adequate provision has been made for pedestrian access to nearby premises;
- g) The safety of the public and the protection of property;
- h) The effect that the waste storage container and any barricade or structure erected to
  - i. prevent public access to that container will have on vehicular movements and
  - ii. vehicular parking in the vicinity of the waste storage container;
- i) The period during which it is proposed to have the waste storage container in the public place;
- j) The adequacy of the available public risk insurance with regard to the protection of Council and the public; and
- k) Any other matter considered relevant by Council in the particular case.

#### **4.2.10.3 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility**

##### Introduction

This section contains information in respect to Council's requirements regarding:

- a) The submission of applications for the installation, construction or alteration of a waste treatment device or a human waste storage facility, or a drain connected to such device or facility; and
- b) The matters that Council will take into consideration when determining an application to install, construct or alter such waste treatment device or human waste storage facility, and the drains connected to such device or facility.

**NOTE:** The Dictionary to the Local Government Act 1993 defines the following as:

“Human waste storage facility” means a device for holding or disposing of human waste, including a cesspit, septic tank, septic closet, water closet, chemical closet, humus closet and combustion closet.

“Waste” means:

(a) effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or

(b) trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work, or garbage, being all refuse other than trade waste and effluent, and includes any other substance defined as waste for the purposes of the Protection of the Environment Operations Act 1997, and a substance is not precluded from being waste merely because it is capable of being refined or recycled.

### Applications

Applications to install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility shall:

- a) Be made by the owner, or by a person authorised in writing by the owner;
- b) Be made on the appropriate application form, or by a letter which contains all of the information deemed necessary by Council to enable Council to properly determine the application;
- c) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges;
- d) Be accompanied by two sets of plans and specifications of the proposed installation or alteration which clearly indicate:
  - i. The fittings or appliances proposed to be connected to the Waste Treatment Device or Human Waste Storage Facility;
  - ii. The size and type of the various components of the Waste Treatment Device or Human Waste Storage Facility, including septic tanks, collection or storage tanks, effluent disposal areas, pipes, fittings, pits, valves and other components, and the materials from which the aforementioned components will be constructed or made;
  - iii. The proposed location of the Waste Treatment Device or Human Waste Storage Facility, the effluent disposal area, and all pipes, fittings, pits, valves and components; and
  - iv. Any other matter which the Council, in the particular case, deems necessary to enable Council to properly consider the application; and
- e) Be accompanied by a Certificate of Accreditation from the NSW Department of Health;
- f) Be accompanied by a geo-technical study prepared by an experienced Geo-technical Engineering Consultant certifying that any proposed effluent disposal area is located in position and is of sufficient design and capacity to ensure that all effluent arising from the buildings on the land can be disposed of on the site without causing nuisances and/or pollution, both in the short and long term.

**NOTES:**

1. The testing for the geo-technical study is to be carried out by a NATA registered laboratory. Matters such as geology, stratigraphy (in particular soil profile and permeability) must be addressed.

Matters Council will take into consideration

When determining an application to install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to such device or facility, Council will take into consideration:

- a) The provisions of the Local Government Act 1993, as amended, and in particular
- b) the provisions of Section 89 of that Act;
- c) The provisions of the Local Government (General) Regulation 2005;
- d) The provisions of ASNZ 3500 Parts 1 to 4 published by the Standards Association of Australia;
- e) The provisions of the National Construction Code (Plumbing Code of Australia);
- f) Whether approval to erect a building pursuant to Section 68 of the Local Government Act 1993 as amended is required prior to the waste treatment device or human waste storage facility being installed, constructed or altered, and if so whether such approval has been issued by Council;
- g) Whether the land is suitable for the installation of a device for the treatment of human waste, or for a human waste storage facility, and whether any effluent from such devices can be disposed of in a satisfactory manner;
- h) The protection and promotion of public health;
- i) The protection of the environment;
- j) Whether all of the information required to enable Council to properly consider the application has been submitted to Council;
- k) Whether all the fees, charges and security deposits required to be paid by Council's Schedule of Fees and Charges have been paid; and
- l) Any other matter Council considers relevant in the particular case.

**4.2.11 Part D – Community land****4.2.11.1 Engage in a trade or business**Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to engage in a trade or business on community land; and
- b) The matters that Council will take into consideration when determining applications for approval to engage in a trade or business on community land.

Applications

Applications for approval to engage in a trade or business on community land, shall:

- a) Be made on the appropriate application form, or by a letter which contains all of the information required to enable Council to properly determine the application.
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges.

- c) Where the activity involves selling food to the public, be accompanied by documentary evidence that the provisions of the NSW Food Authority – Guidelines for Mobile Food Vending Vehicles and the NSW Food Authority – Guidelines for Food Businesses at Temporary Events, will be complied with.
- d) Be accompanied by a statement providing details of:
  - i. The days and times during which it is proposed to engage in the trade or business;
  - ii. Any public liability insurance designed to indemnify the applicant and Council against claims for injury to persons and damage to property while the trade or business is being conducted;
- e) If considered necessary by Council in the particular case, be accompanied by plans and specifications showing the design, type and location of any structures, barricades, tables or articles proposed to be placed or left on the community land for the purpose of engaging in the trade or business; and
- f) Be accompanied by any other information that Council considers relevant in the particular case.

Matters Council will take into consideration

When determining an application to engage in a trade or business on community land Council will take into consideration the following criteria:

- a) The provisions of the Local Government Act 1993 as amended, and in particular Section 89 of that Act;
  - i. The provisions of the Local Government (General) Regulation 2005;
  - ii. Whether all of the information necessary for Council to properly determine the application has been submitted to Council;
  - i. Whether all the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges have been paid;
- b) Whether, if the trade or business involves selling food to the public, the provisions of the NSW Food Authority – Guidelines for Mobile Food Vending Vehicles and the NSW Food Authority – Guidelines for Food Businesses at Temporary Events, will be complied with;
- c) The effect that the proposed trade or business will have on the enjoyment of the community land by members of the public;
- d) The safety of the public and the protection of property;
- e) Any management plan that Council has adopted in respect to the management of Community Land;
- f) Whether any public liability insurance taken out in respect to the proposed trade or business is adequate to protect Council against claims for injuries to persons and damage to property; and
- g) Any other matter that Council considers relevant in the particular case.

#### **4.2.11.2 Direct or procure a theatrical, musical or other entertainment for the public.**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to direct or procure a theatrical, musical or other entertainment for the public on community land; and
- b) The matters Council will take into consideration when determining applications for approval to direct or procure a theatrical, musical or other entertainment for the public on community land.

##### Applications

Applications for approval to direct or procure a theatrical, musical or other entertainment for the public on community land shall:

- a) Be made on the appropriate application form, or by a letter which contains all of the information required to enable Council to properly consider the application.
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges.
- c) Be accompanied by a statement providing details of:
  - i. The days and times during which it is proposed to conduct the theatrical, musical or other entertainment;
  - ii. The number of persons expected to attend the function;
  - iii. The procedures and methods proposed to be used for crowd control;
  - iv. The arrangements proposed for cleaning the site during and after the function;
  - v. The number and type of toilets and other facilities proposed to be provided at the function;
  - vi. The location, design and type of all amplification equipment proposed to be used at the function, and the expected noise levels (in dB(A)) at the boundaries of the community land concerned;
  - vii. The location, type and design of all food outlets proposed to be operated at the function; and
  - viii. The location and type of any seating proposed to be provided at the function.
- d) Be accompanied by plans and specifications and the proposed location of any barricades or structures proposed to be used at the activity.
- e) Be accompanied by documentation providing details of any public risk insurance available for the function from the time work commences in setting up the equipment until the site is cleared.
- f) Be accompanied by any other information deemed necessary by Council in the particular case.

### Matters Council will take into consideration

When determining an application for approval to direct or procure a theatrical, musical or other entertainment for the public on community land, Council will take into consideration the following criteria:

- a) Whether development consent under the Environmental Planning and Assessment Act 1979 as amended, is required prior to an approval being granted pursuant to Section 68 of the Local Government Act 1993 as amended, to a person to direct or provide a theatrical, musical or other entertainment for the public on community land, and if so, whether such consent has been issued by Council;
- b) Whether all of the information required to enable Council to properly consider and determine the application has been submitted to Council;
- c) Whether all of the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges has been paid;
- d) The provisions of the Local Government Act 1993 as amended, and in particular Section 89 of that Act;
- e) The provisions of the Local Government (General) Regulation 2005;
- f) The provisions of the Protection of the Environment Operations Act 1997 (POEO Act) as amended, and the Regulations made thereunder;
- g) The safety of the public and the protection of property;
- h) The adequacy of the available public liability insurance with regard to the protection of the Council and the applicant against claims for injuries to persons and damage to property;
- i) Any management plan adopted by Council in respect to the management of Community Land;
- j) Whether alcohol will be available on the site, and if so, whether a liquor licence has been issued and any conditions attached thereto;
- k) Whether adequate toilet facilities will be available on the site; and
- l) Any other matter that Council considers relevant in the particular case.

#### **4.2.11.3 Construct a temporary enclosure for the purpose of entertainment**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to construct a temporary enclosure for the purpose of entertainment on community land; and
- b) The matters Council will take into consideration when determining an application to construct a temporary enclosure for the purpose of entertainment on community land.

##### Applications

Applications for approval to construct a temporary enclosure on community land for the purpose of entertainment shall:

- a) Be made on the appropriate application form, or by a letter which contains all of the information requested to enable Council to properly determine the application;
- b) Be accompanied by the relevant fees, charges and security deposits incorporated on Council's Schedule of Fees and Charges;
- c) Be accompanied by plans and specifications showing the design, type and location of the structure or structures proposed to be used to enclose the section of

community land, and the type, design and location of any proposed signs, warning lights or other safety equipment;

- d) Be accompanied by details of any public liability insurance designed to indemnify Council and the applicant against claims for injury to persons and damage to property while the section of community land is enclosed; and
- e) Be accompanied by any other information that Council considers relevant in the particular case.

#### Matters Council will take into consideration

When determining an application to construct temporary enclosures on community land for the purpose of entertainment, Council will take the following criteria into consideration:

- a) Whether all of the information required to enable Council to properly determine the application has been submitted to Council;
- b) Whether all of the relevant fees, charged and security deposits incorporated on Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993 as amended, and particularly Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005;
- e) The effect that the enclosure will have on the enjoyment of the community land by members of the public;
- f) The provisions of any relevant Statute or Regulation, and any relevant standards and policies of public authorities applying to the use of the road;
- g) The safety of the public and the protection of property;
- h) The period during which it is proposed to enclose the section of community land;
- i) Whether any public liability insurances taken out in respect to the enclosure of the community land is adequate to protect Council against claims for injury to persons and damage to property;
- j) Any management plan which Council has adopted in respect to the management of community land;
- k) Whether development consent pursuant to the provisions of the Environmental Planning and Assessment Act, 1979 as amended is required for the activity, and if so, whether such consent has been issued;
- l) Whether adequate toilet facilities will be available on the site;
- m) Whether alcohol will be available on the site, and if so, whether a liquor licence has been issued and any conditions attached thereto; and
- n) Any other matter that Council considers relevant in the particular case.

#### **4.2.11.4 For fee or reward, play a musical instrument or sing**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to play a musical instrument or sing for a fee or reward on community land; and
- b) The matters Council will take into consideration when determining applications for approval to play a musical instrument or sing for a fee or reward on community land.



### Applications

Applications for approval to play a musical instrument or sing for a fee or reward on community land shall:

- a) Be made on the appropriate application form, or by a letter which contains all of the information required to enable Council to properly consider the application.
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges.
- c) Be accompanied by a statement providing details of:
  - i. The days and times during which it is proposed to play the musical instrument or sing;
  - i. The location where it is proposed to play the musical instrument or sing; and
  - ii. The name, address and telephone number of the persons accepting responsibility for the activities.

### Matters Council will take into consideration

When determining an application for approval to play a musical instrument or sing for a fee or reward on community land, Council will take the following criteria into consideration:

- a) Whether all of the information required to enable Council to properly determine the application has been submitted to Council;
- b) Whether all of the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993 as amended, and in particular Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005;
- e) The safety of the public and the protection of property;
- f) The provisions of Code No 1 - Busking; and
- g) Any other matter that Council considers relevant in the particular case.

### **4.2.11.5 Deliver a public address or hold a religious service or public meeting**

#### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to deliver a public address or hold a religious service or public meeting on community land; and
- a) The matters Council will take into consideration when determining applications for approval to deliver a public address or hold a religious service or public meeting on community land.

#### Applications

Applications for approval to deliver a public address or hold a religious service or public meeting on community land, shall:

- a) Be made on the appropriate application form, or by a letter which contains all of the information required to enable Council to properly consider the application.
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges.

- c) Be accompanied by a statement providing details of:
  - i. The days and times during which it is proposed to conduct the activity;
  - ii. The number of persons expected to attend the function;
  - iii. The procedures and methods proposed to be used for crowd control;
  - iv. The arrangements proposed for cleaning the site during and after the function;
  - v. The number and type of toilets and other facilities proposed to be provided at the function;
  - vi. The location, design and type of any artificial lighting proposed to be used at the function;
  - vii. The location, design and type of any amplification equipment proposed to be used at the function, and the expected noise levels (in dB(a)) at the boundaries of the community land concerned;
  - viii. The location, type and design of all food outlets proposed to be operated at the function; and
  - ix. The location and type of any seating proposed to be provided at the activity;
  - x. Be accompanied by plans and specifications and the proposed location of any barricades or structures proposed to be used at the function.
- d) Be accompanied by documentation providing details of any public risk insurance available for the function from the time work commences in setting up the equipment until the site is cleared.
- e) Be accompanied by any other information deemed necessary by Council in the particular case.

Matters Council will take into consideration

When determining an application for approval to deliver a public address or hold a religious service or public meeting on community land Council will take into consideration the following criteria:

- a) Whether development consent under the Environmental Planning and Assessment Act 1979 as amended is required prior to an approval being granted pursuant to Section 68 of the Local Government Act 1993 as amended, for the proposed activity and if so, whether such consent has been issued by Council;
- b) Whether all the information required to enable Council to properly consider and determine the application has been submitted to Council;
- c) Whether all of the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges have been paid;
- d) The provisions of the Local Government Act 1993 as amended, and in particular Section 89 of that Act;
- e) The provisions of the Local Government (General) Regulation 2005;
- f) The provisions of the Protection of the Environment Operations Act 1997 (POEO Act) as amended and the Regulations made under that Act;
- g) The safety of the public and the protection of property;
- h) The adequacy of the available public risk insurance with regard to the protection of Council and the public; and
- i) Any other matter that Council considers relevant in the particular case.

#### **4.2.12 Part E – Public roads**

##### **4.2.12.1 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**

###### Introduction

The purpose of this section is to provide the public with information as to Council's requirements in respect to:

- a) The submission of applications to 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; and
- b) The matters that Council will take into consideration when determining applications to 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.

###### Applications

Applications to 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 shall:

- a) Be made by the owner, or by a person authorised in writing by the owner;
- b) Be made on the appropriate application form, or by a letter which contains all of the information deemed necessary by Council to enable Council to properly determine the application;
- c) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges;
- d) Be accompanied by plans and specifications showing the design, type and location of the machinery or structure proposed to be used to swing or hoist goods across the roadway;
- e) Be accompanied by plans and specifications showing the design, type and location of the structure or structures proposed to be used to enclose the area over which the goods will be lifted, and the type, design and location of any proposed signs, warning lights or other safety equipment; and
- f) Be accompanied by any current approval or licence issued by the WorkCover Authority of NSW.

###### Matters Council will take into consideration

When determining an application for approval to 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, Council will take into consideration:

- a) Whether all of the information required to enable Council to properly consider and determine the application has been submitted to Council;
- b) Whether all of the relevant fees, charges and security deposits listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993, as amended, and in particular Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005;
- e) The provisions of the Roads Act 1993 and the Regulations made thereunder;
- f) The effect that the enclosure of the portion of the road over which the goods will be lifted will have on pedestrian movements in the vicinity of the proposed enclosure;

- g) and whether adequate provision has been made for pedestrian access to nearby premises;
- h) The safety of the public and the protection of property;
- i) The effect that the enclosure of the portion of the road over which the goods will be lifted will have on vehicular parking in the vicinity of the proposed enclosure;
- j) The period during which it is proposed to keep the public place enclosed; and
- k) Any other matter or thing Council considers relevant in the particular case.

**4.2.12.2 Expose or allow to be exposed (whether for sale or otherwise) 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**

Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to erect an advertising structure over a public road, or expose or allow to be exposed (whether for sale or otherwise) any article in or on so as to overhang any part of a road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road; and
- b) The matters that Council will take into consideration when determining applications for approval to erect an advertising structure over a public road, or expose or allow to be exposed (whether for sale or otherwise) any article in or on so as to overhang any part of a road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

Applications

Applications for approval to erect an advertising structure over a public road, or expose or allow to be exposed (whether for sale or otherwise) any article in or on so as to overhang any part of a road, shall:

- a) Be made on the appropriate application form, or by a letter which contains all of the information required to enable Council to properly determine the application;
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges;
- c) Be accompanied by plans and specifications drawn to scale of the proposed advertising structure or article which is intended to overhang the road, showing:
  - i. The dimensions of the proposed advertising structure or article;
  - ii. the location of the proposed advertising structure or article; and
  - iii. The minimum distance between the footpath and the lowest part of the advertising structure or article.

NOTE: The minimum clearance between the footpath and the lowest part of the advertising structure or article is 3.0 metres.

- d) Be made and requested by the owner of the building to which the advertising structure or article is to be attached, by a letter signed by the owner authorising the submission of the application; and
- e) Be accompanied by any other information considered necessary by Council in the particular case.

### Matters Council will take into consideration

When determining an application to erect an advertising structure over a public road, or expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of a road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road, Council will take into consideration:

- a) The provisions of the Local Government Act 1993 as amended and in particular, Section 89 of that Act;
- b) The provisions of the Local Government (General) Regulation 2005 and in particular, Division 5 of Part 2 of that Regulation;
- c) The provisions of the National Construction Code (Building Code of Australia);
- d) The provisions of the Roads Act 1993 as amended and the Regulations made thereunder;
- e) The provisions of any relevant Statute or Regulation, and any relevant standards and policies of public authorities applying to the use of the road;
- f) Whether development consent under the Environmental Planning and Assessment Act 1979 as amended is required prior to an approval for the proposed activity being issued under the Local Government Act 1993 as amended, and if so, whether such development consent has been issued by Council;
- g) The safety of the public and the protection of property;
- h) Whether adequate access to utility services will be maintained, and
- i) Any other matter that Council considers relevant in the particular case.

#### **4.2.13 Part F – Other activities**

##### **4.2.13.1 Operate a caravan park or camping ground**

###### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) the submission of applications to operate a caravan park and/or camping ground on land; and
- b) The matters that Council will take into consideration when determining applications to operate a caravan park and/or camping ground.

###### Applications

Applications to operate a caravan park or camping ground shall:

- a) Be made by the owner or a person authorised by the owner in writing;
- b) Be made on the appropriate application form, or by a letter or other document containing all of the information required by the Local Government Act 1993, as amended, the Regulations made thereunder and the Broken Hill City Council Local Approvals Policy to enable Council to properly consider and determine the application;

Note: This approval may be obtained as part of the Development Application required under the Environmental Planning and Assessment Act 1979.

- c) Be accompanied by the relevant fees and charges listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges;

- d) Be accompanied by a plan showing the proposed location and layout of the caravan park and/or camping ground and its relationship to:
  - i. The boundaries of the property;
  - ii. Any roads or footways on the land;
  - iii. All manufactured homes, moveable dwellings or associated structures on the land; and
  - iv. Any permanent or temporary structure on the land.
- e) Be accompanied by Plans and Specifications showing:
  - i. The location and layout of all caravans and camping sites designated as either for short term or long term residence;
  - ii. The location and layout of caravan and campsites;
  - iii. The details of amenities such as electricity supply, waste disposal, laundry facilities, toilet facilities, and shower facilities; and
  - iv. The location of all firefighting services within the land.

Matters Council will take into consideration

When determining an application to operate a caravan park and/or camping ground Council will take into consideration:

- a) Whether all of the information required to enable Council to properly consider and determine the application has been submitted;
- b) Whether all of the relevant fees and charges listed in the list of fees and charges incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993 as amended, and in particular, those matters prescribed in Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005.
- e) Any applicable standards that are specified in the Local Government (Manufactured Home Estates caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005;
- f) The provisions of any other relevant Statute or Regulation;
- g) Whether adequate provision has been made to ensure the health, safety and convenience of the occupants of any moveable dwelling or associated structure or campsite;
- h) Whether Development Consent is required pursuant to the provisions of the Environmental Planning and Assessment Act 1979 as amended, prior to an approval being granted pursuant to Chapter 7 of the Local Government Act 1993, and if so, whether such Development Consent has been granted; and
- i) Any other matter Council considers relevant in the particular case.

**4.2.13.2 Operate a manufactured home estate**

Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications to operate a manufactured home estate on land; and
- b) The matters that Council will take into consideration when determining applications to operate a manufactured home estate.

Applications

Applications to operate a manufactured home estate shall:

- a) Be accompanied by the relevant fees and charges incorporated in Council's Schedule of Fees and Charges;
- b) Be made by the owner or a person authorised by the owner in writing;
- c) Be made on the appropriate application form, or by a letter or other document containing all of the information required by the Local Government Act 1993, as amended, the Regulations made thereunder and the Broken Hill City Council Local Approvals Policy to enable Council to properly consider and determine the application;

**Note:** This approval may be obtained as part of the Development Application required under the Environmental Planning and Assessment Act 1979.

- d) Be accompanied by a plan showing the proposed location and layout of the manufactured home estate and its relationship to:
  - i. The boundaries of the property;
  - ii. Any roads or footways on the land;
  - iii. All manufactured homes, moveable dwellings or associated structures on the land; and
  - iv. Any permanent or temporary structure on the land, including community amenities and buildings.
- e) Be accompanied by Plans and Specifications showing:
  - i. All those services and facilities required by the Local Government (Manufactured Homes Estates, Caravan Parks, camping Grounds and Moveable Dwellings) Regulation 2005;
  - ii. The location and layout of all parking spaces for vehicles;
  - iii. The area and dimensions of residential sites; and
  - iv. The location of all firefighting services within the land.
- f) Be accompanied by such additional information required by Council to enable Council to properly determine the application.

Matters Council will take into consideration

When determining an application to operate a manufactured home estate Council will take into consideration:

- a) Whether all of the information required to enable Council to properly consider and determine the application has been submitted;
- b) Whether all of the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges have been paid;
- c) The provisions of the Local Government Act 1993, as amended, and in particular, those matters prescribed in Section 89 of that Act;
- d) The provisions of the Local Government (General) Regulation 2005;
- e) Any applicable standards that are specified in the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005;
- f) The provisions of any other relevant Statute or Regulation;
- g) Whether adequate provision has been made to ensure the health, safety and convenience of the occupants of any moveable dwelling or associated structure or campsite;

- h) Whether Development Consent is required pursuant to the provisions of the Environmental Planning and Assessment Act 1979, as amended, prior to an approval being granted pursuant to Chapter 7 of the Local Government Act 1993, and if so, whether such Development Consent has been granted; and
- i) Any other matter Council considers relevant in the particular case.

#### **4.2.13.3 Install or operate amusement devices**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications to install or operate amusement devices (within the meaning of the Work Health and Safety Regulation 2011); and
- b) The matters that Council will take into consideration when determining applications to install or operate amusement devices (within the meaning of the Work Health and Safety Regulation 2011).

##### Applications

Applications for approval to install or operate amusement devices (within the meaning of the Work Health and Safety Regulation 2011) shall:

- a) Be made by the owner, or a person authorised in writing by the owner;
- b) Be made on the appropriate application form, or by a letter which contains all of the information deemed necessary by Council to enable Council to properly determine the application;
- c) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges;
- d) Be accompanied by documentary evidence that the amusement device is registered with the WorkCover Authority of NSW under the Work Health and Safety Regulation 2011 as amended;
- e) Be accompanied by documentary evidence that there is in force a contract of insurance or indemnity which indemnifies to an unlimited extent (or up to an amount of not less than \$5,000,000 in respect of each accident (\$10,000,000 on Council land) each person who would be liable for damages for death or personal injury arising out of the operation or use of the amusement device and any total or partial failure or collapse of the device against that liability;
- f) Be accompanied by a statement as to the dates and times upon which it is proposed to operate the amusement device; and
- g) Be accompanied by a statement as to the date and time upon which the amusement device will be installed and ready for operation to enable an inspection to be carried out for the purpose of issuing an approval prior to the amusement device being operated.



#### Matters Council will take into consideration

In its assessment and determination of an application to install or operate amusement devices (within the meaning of the Work Health and Safety Regulation 2011), Council will take the following criteria into consideration:

- a) The provisions of the Local Government Act 1993 as amended, and in particular the provisions of Section 89 of that Act;
- b) The provisions of the Local Government (General) Regulation 2005, and in particular Subdivision 5 of Division 5 of Part 2 of that Regulation;
- c) The provisions of the Work Health and Safety Act 2011 as amended;
- d) The provisions of the Work Health and Safety Regulation 2011 as amended;
- e) Whether all of the information deemed necessary by Council to enable the application to be properly considered has been submitted to Council;
- f) Whether all of the fees, charges and security deposits required to be paid by Council's Schedule of Fees and Charges have been paid; and
- g) any other matter or thing Council considers relevant in the particular case.

#### **4.2.13.4 Use a standing vehicle or any article for the purpose of selling any article in a public place**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications to use a standing vehicle or any article for the purpose of selling any article in a public place; and
- b) The matters Council will take into consideration when determining applications to use a standing vehicle or any article for the purpose of selling any article in a public place.

##### Applications

Applications for approval to use a standing vehicle or any article for the purpose of selling any article in a public place shall:

- a) Be made on the appropriate application form or by a letter which provides details of:
  - i. The location where it is proposed to sell the articles;
  - ii. The articles that it is proposed to sell; and
  - iii. The dates and times on which and during which it is proposed to sell the articles.
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges;
- c) Be accompanied by details of public risk insurance to indemnify the applicant and Council against claims for damages; and
- d) Be accompanied by documentation showing how any food to be sold is to be protected.

#### Matters Council will take into consideration

In its assessment and determination of an application to use a standing vehicle or any article for the purpose of selling any article in a public place, Council will take the following criteria into consideration:

- a) The provisions of the Local Government Act 1993 as amended, and particularly Section 89 of that Act;
- b) The provisions of the Local Government (General) Regulation 2005;
- c) Whether if the trade or business involves selling food to the public, the provisions of:
  - i. the NSW Food Authority – Guidelines for Mobile Food Vending Vehicles; and
  - ii. NSW Food Authority – Guidelines for Food Businesses at Temporary Events, will be complied with.
- d) The provisions of the Roads Act 1993 as amended and the Regulations made thereunder;
- e) The safety of the public and the protection of property;
- f) The effect that the standing vehicle or article used for the purpose of selling articles will have on pedestrian movements in the vicinity of the vehicle or article, and whether adequate provision has been made for pedestrian access to nearby premises;
- g) The effect that the standing vehicle or articles used for the purpose of selling articles will have on vehicular movements and vehicular parking;
- h) Whether the applicant has made provision for public liability insurance to a level considered adequate by Council; and
- i) Any other matter that Council considers relevant in the particular case.

#### **4.2.13.5 Carry out activity prescribed by the regulations or an activity of a class or description prescribed by the regulations**

##### Introduction

The purpose of this section is to provide information as to Council's requirements in respect to:

- a) The submission of applications for approval to carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations; and
- b) The matters Council will take into consideration when determining an application for approval to carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulation.

##### Applications

Application for approval to carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations shall:

- a) Be made on the appropriate application form or by a letter which contains all of the information required to enable Council to properly determine the application;
- b) Be accompanied by the relevant fees, charges and security deposits incorporated in Council's Schedule of Fees and Charges;
- c) Be made by the owner, or by a person authorised in writing by the owner; and
- d) Be accompanied by any other documents or information deemed necessary by Council in the particular case.

### Matters Council will take into consideration

When determining an application to carry out an activity prescribed by the regulations or an activity of a clause or description prescribed by the regulations, Council will take the following criteria into consideration:

- a) The provisions of the Local Government Act 1993 as amended, and particularly Section 89 of that Act;
- b) The provisions of the Local Government (General) Regulation 2005;
- c) Whether all of the information required to enable Council to properly consider the application has been submitted;
- d) The provision of any relevant Statute or Regulation;
- e) Whether development consent under the Environmental Planning and Assessment Act 1979 as amended is required prior to an approval for the proposed activity being issued under the Local Government Act 1993 as amended, and if so, whether such development consent has been issued by Council; and
- f) Any other matter that Council considers relevant in the particular case.

### **4.3 PART 3 – OTHER MATTERS**

#### **4.3.1 Refund of Fees**

If an application is withdrawn or is cancelled or lapses, the applicant may be eligible for a part refund of some fees. Applications for a refund of fees must be in writing to Council.

Upon receipt of such an application, Council will determine the refund in accordance with the criteria shown in the table below.

<b>The Stage at which the Refund is requested</b>	<b>How to Determine the Fees that are Refundable</b>
Applications which are Unclear or Illegible.	When the application has been returned to the applicant pursuant to Section 85 of the Local Government Act 1993 or Clause 51 of the Environmental Planning & Assessment Regulations 2000 on the grounds that the application is unclear or illegible, the whole of the application fee and the security deposit, if any, shall be refunded.
Withdrawal of applications before checking of Documentation has commenced.	When an application is withdrawn by the applicant in writing pursuant to Section 88 of the Local Government Act 1993 or Clause 52 of the Environmental Planning and Assessment Regulation 2000 and the checking of the plans, specifications and/or other relevant documentation has not commenced, 50% of the application fee shall be refunded, provided always that Council shall retain not less than \$50 nor more than \$200 of the application fee.

<p>Withdrawal of applications after checking of Documentation has commenced.</p>	<p>When an application is withdrawn by the applicant in writing pursuant to Section 88 of the Local Government Act 1993 or Clause 52 of the Environmental Planning and Assessment Regulation 2000 and Council has commenced processing the application by checking the plans, specifications and/or other relevant documentation, 25% of the application fee shall be refunded, provided always that Council shall retain a minimum of \$50 of the application fee.</p>
<p>Land Use component of Combined Development Application refused.</p>	<p>All Council fees relating to the building component of the application will be refunded.</p>
<p>Applications withdrawn, cancelled or lapsed after checking of Documentation has been completed.</p>	<p>When an application is withdrawn, cancelled or lapses after the checking of the documentation has been completed, Council shall retain the whole of the application fee.</p>
<p>Security Deposits - Circumstances where Security Deposits will be refunded in full.</p>	<p>Security deposits shall be refunded in full where:</p> <ul style="list-style-type: none"> <li>a) the application is returned to the applicant by Council as being unclear or illegible and no further action is taken in respect to the application;</li> <li>b) the application is withdrawn by the applicant and the proposed activity is not commenced; and</li> <li>c) the activity has reached the stage of practical completion in accordance with the approval issued by Council and approval to occupy the building has been issued by Council, provided that no damage has been caused to Council works.</li> </ul>
<p>Security Deposits - Circumstances where Council will retain part or all of Security Deposit.</p>	<p>Security deposits shall be retained by Council in full or in part where damage has been caused to Council works as a result of the activity, the subject of the application, in accordance with the following criteria:</p> <ul style="list-style-type: none"> <li>a) the cost or estimated cost of repairing the damage to Council's works or property as determined by the Director Engineering Services shall be deducted from the security deposit, and the remainder, if any, shall be refunded to the applicant; or</li> <li>b) where the cost or estimated cost of repairing the damage to Council works or property as determined by the Director Engineering Services exceeds the amount of Security Deposit held by Council, the whole of the Security Deposit shall be retained by Council and an account for the remainder shall be forwarded to the applicant.</li> </ul>

### **4.3.2 When does an Approval Lapse**

An approval under Section 68 of the Local Government Act 1993 or Section 92 of the Environmental Planning and Assessment Act 1979 lapses five years after the date from which the approval operates unless:

- a) the approval states otherwise; or
- b) the activity has physically substantially commenced within the meaning of the applicable Act.
- c) An extension of an approval may be granted if:
  - i. 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 so extended.

### **4.3.3 Code No 1 - Busking**

Local Government Act 1993 as amended - Section 68, Part D (4)

#### Introduction

This Code provides details of Council's requirements in respect to "busking" on community land.

#### Definition

BUSKER means an itinerant musician or actor.

BUSKING means a busker performing in a public place.

#### Application

This Code applies to all areas within the Broken Hill City Council local government area. It is to be read in conjunction with the Broken Hill City Council Local Approvals Policy.

#### Insurance

Council may require that an application to undertake busking shall not take effect until the applicant has provided Council with a copy of a public risk policy with a minimum value of \$10 million which contains the following clause:

"It is hereby agreed that the indemnity given by this policy is extended to the Broken Hill City Council in respect to the operation of an approved footpath/street activity"

#### Conditions of Approval

All persons busking in accordance with approval by Council pursuant to Part D of the Table to Section 68 of the Local Government Act 1993, as amended, shall comply with all conditions of approval imposed by Council in respect to that consent.

#### Conditions of approval will be directed at:

- a) Protecting members of the public against injuries resulting from obstructions placed on public places by "buskers";
- b) Protecting Council against claims for damages resulting from injuries resulting from the activities of "buskers";
- c) Ensuring that members of the public are not harassed by or obstructed by buskers; and
- d) Limiting the duration, days and locations upon which and where busking will be permitted.

## **5. IMPLEMENTATION**

### **5.1 Roles and Responsibilities**

The following Council officers are responsible for the implementation and the adherence to this policy:

- General Manager
- Executive Manager Planning and Community Safety
- Rangers
- Compliance Officers

### **5.2 Communication**

This Policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework and Council's Business Paper process. Following adoption by Council the Policy will be made available on Council's website.

### **5.3 Associated Documents**

The following documentation is to be read in conjunction with this policy:

- Compliance and Enforcement Policy
- Local Orders Policy

## **6. REVIEW**

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be every two years from the effective date, or when amendments have been made to relevant legislation. The responsible Council officer will be notified of the review requirements three months prior to the expiry of this policy.

The Executive Manager Planning and Community Safety is responsible for the review of this policy.

## **7. LEGISLATIVE AND LEGAL FRAMEWORK**

This policy is to be read in conjunction with the following:

- Local Government Act 1993 and subordinate regulations.

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Local Approvals Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

## **8. DEFINITIONS**

Expressions used in the Policy are defined in the Dictionary at the end of the Local Government Act 1993 (the "Act Dictionary").