



POLICY MEETING

SUPPLEMENTARY AGENDA

ITEM 3.11

12 April 2016

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**LEICHHARDT MUNICIPAL COUNCIL****POLICY MEETING OF COUNCIL**

NOTICE IS HEREBY OF THE FOLLOWING **SUPPLEMENTARY ITEM** FOR THE **POLICY MEETING** OF THE LEICHHARDT MUNICIPAL COUNCIL WILL BE HELD IN THE COUNCIL CHAMBERS, LEICHHARDT TOWN HALL, 107 NORTON STREET, LEICHHARDT ON 12 APRIL 2016 at 6:30 PM.

Mark Bonanno  
ACTING GENERAL MANAGER

**8 April 2016**

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**SECTION 3 – OTHER REPORTS**

**ITEM 3.11                      STREAMLINING AND SIMPLIFYING LGA EVENT APPROVAL PROCESS**

<b>Division</b>	Environment and Community Management
<b>Author</b>	Director Environmental and Community Management Manager Assessments
<b>Meeting date</b>	12 April 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	This report responds to councils September 2015 resolution that a draft Local Approvals Policy be prepared. It also provides an update about other initiatives being progressed to facilitate live music venues and activities in the local government area.
<b>Background</b>	At its meeting on 14 April 2015, Council requested (C121/15P) a further report on ways in which Council can seek to reduce red tape, costs and resources by streamlining and simplifying application and approval processes for events and activities to encourage the activation of public And private space within the LGA. On 8 September 2015 Council resolved (C430/15P) to develop a draft Local Approvals Policy and a draft Planning Proposal to extend Exempt and Complying provisions
<b>Current Status</b>	This report progresses councils strategic direction in promoting Live Music and cultural events in the local government area
<b>Relationship to existing policy</b>	Council resolutions: Off Broadway Parramatta Road C267/14, Business forums C341/14, Streamlining and Simplifying Approval Processes C121/15P, Enlivening and enhancing our main street shopping precincts C280/15, Parramatta Road Live Music and Cultural Precinct C77/13, 'Good neighbour policy' C08/13, Parramatta Road Live Music precinct C254/13, C320/13, C497/13, Live Music Taskforce C14/14,

<b>Financial and Resources Implications</b>	This proposal is consistent with the recent s23A Guidelines issued by the OLG in relation to financial expenditure.
<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Endorse the draft Local Approvals Policy (Attachment 1)</li> <li>2. Place the draft Local Approvals Policy on public exhibition for a period of 28 days and allow 42 days for lodgement of submissions, in accordance with the <i>Local Government Act and Regulations</i> and Councils Community Engagement Framework</li> <li>3. Refer the draft Local Approvals Policy to the Office of Local Government in accordance with s.162 of the <i>Local Government Act</i></li> <li>4. Exhibit an amendment to the <i>Leichhardt Development Control Plan 2013</i> as detailed in section 1.3 of this report</li> <li>5. Delegate authority to the General Manager to make changes to the draft Local Approvals Policy and draft amendment to <i>Leichhardt Development Control Plan 2013</i> prior to the public exhibition as a result of consideration by Council or where there are minor changes that do not affect the substance of the provisions; and</li> <li>6. Endorse the Community Engagement Plan for the draft amendments to the draft Local Approvals Policy and draft <i>Leichhardt Development Control Plan 2013</i> as outlined in section 1.4 of this report.</li> </ol>
<b>Notifications</b>	<ol style="list-style-type: none"> <li>1. Place the draft Local Approvals Policy on public exhibition for a period of 28 days and allow 42 days for lodgement of submissions in accordance with the <i>Local Government Act and Regulations</i> and Councils Community Engagement Framework</li> <li>2. Refer the draft Local Approvals Policy to the Department of Local Government in accordance with s.162 of the <i>Local Government Act</i></li> <li>3. Exhibit an amendment to the <i>Leichhardt Development Control Plan 2013</i> as detailed in section 1.3 of this report</li> </ol>
<b>Attachments</b>	1. Draft Local Approvals Policy

## **Purpose of Report**

This report responds to Councils September 2015 resolution that a draft Local Approvals Policy be prepared. It also provides an update about other initiatives being progressed to facilitate live music venues and activities in the local government area.

## **Recommendation**

That Council:

1. Endorse the draft Local Approvals Policy (Attachment 1)
2. Place the draft Local Approvals Policy on public exhibition for a period of 28 days and allow 42 days for lodgement of submissions, in accordance with the *Local Government Act and Regulations* and Councils Community Engagement Framework
3. Refer the draft Local Approvals Policy to the Office of Local Government in accordance with s.162 of the *Local Government Act*
4. Exhibit an amendment to the *Leichhardt Development Control Plan 2013* as detailed in section 1.3 of this report
5. Delegate authority to the General Manager to make changes to the draft Local Approvals Policy and draft amendment to *Leichhardt Development Control Plan 2013* prior to the public exhibition as a result of consideration by Council or where there are minor changes that do not affect the substance of the provisions; and
6. Endorse the Community Engagement Plan for the draft amendments to the draft Local Approvals Policy and draft *Leichhardt Development Control Plan 2013* as outlined in section 1.4 of this report.

## **Background**

At its meeting on 14 April 2015, Council requested (C121/15P) a further report on ways in which Council can encourage the activation of public and private space within the LGA.

On 8 September 2015 Council resolved (C430/15P) to develop a draft Local Approvals Policy and a draft Planning Proposal to extend Exempt and Complying provisions. At the September 2015 meeting Council also considered a report which outlined the Parramatta Road "Off Broadway" Implementation Program.

## **Report**

### **1.1 History**

In support of Councils community, cultural and economic development objectives Leichhardt Council has been exploring ways to help Live Music venue operators and

other event managers to negotiate the approvals process, manage noise and open up new spaces to performers. Councils adopted policies to progress this strategic direction include:

- a 'Good Neighbour Policy' which supports the 'agent of change principle' that protects existing compliant Live Music venues from complaints from new development and residents
- changes to the *Leichhardt Local Environmental Plan 2013* to make it easier for small bars to become established
- working towards the revitalisation of the Parramatta Road corridor as a cultural precinct

In 2014 Leichhardt Council participated in a Live Music Zone Reference Group with Marrickville council, City of Sydney, live music industry representatives and musicians and related business owners. The scope of the Reference Group included consideration of the recommendations of the City of Sydney Taskforce report, site inspections, identification of opportunities and recommendations which will enhance the potential of Parramatta Road and Sydenham as future cultural, live music and performance destinations. One of the recommendations was that Leichhardt Council improve planning and approvals processes.

In 2015 an Internal Working Group consisting of Councils Manager Assessments, the Legal Services Manager, the Manager Compliance, Placemaking and Public Art Officer and the Director Environment and Community Management identified opportunities to reduce red tape, costs and resources by streamlining and simplifying application and approval processes for events and activities through the implementation of a Local Approvals Policy. They determined that the scope of the Policy should be limited to events and activities in the public domain.

The *Local Government Act* enables Council to develop and implement a *Local Approvals Policy* which gives Council the power to approve a predetermined range of events, promotions and related activities by licence, in the public domain. It can also establish approvals for pre-determined locations such as Norton Street or certain streets in Balmain on ANZAC Day/ locations. Pre-determined land uses can include:

- promotional activities adjacent to and in association with an existing approved land use
- amplified and non-amplified entertainment at certain times of day
- school stalls, buskers, food vans etc

## **1.2 Summary of the Draft Local Approvals Policy**

In accordance with Councils September 2015 resolution (C430/15P), a draft Local Approvals Policy has been developed.

The draft Policy provides an outline of the matters relevant to obtaining an approval from the Council under the Local Government Act, setting the framework for types of activities and circumstances relevant for such applications. Similarly, the Local Approvals Policy provides the circumstances for exemptions from the need to gain an approval.

It is intended that subsequent to adoption and establishment of this policy by Council that the Policy would be expanded to include Mobile Food Vending and other regulatory matters.

In addition to some 'standard' provisions around waste management; stormwater; operating car parks; amusement devices etc, the policy includes the following economic development initiatives:

1.2.a *Community and promotional (for profit) events on Council land*

Part 2, Point 4 of the draft Policy establishes criteria for how Council will assess and permit community and promotional events on public land.

It is proposed to regulate events through a Section 68 application process. It is noted that even in jurisdictions where the requirement for development consent has been set aside (for example, The Rocks), a consistent approach is that the land owner regulates the use of its land through an (albeit simplified) approval process.

The *Local Government Act 1993* places strict limitations on Council's ability to licence uses of its parks and other 'community land'. A lease or licence may be granted for a purpose which is a core purpose of the category of community land (eg. sporting field, park, general community); or for the provision of goods, services and facilities and the carrying out of activities within the local community and wider public in relation to public recreation or the physical or cultural, social and intellectual welfare or development of persons, including the prescribed purposes of childcare centres, lifesaving clubs, restaurants or refreshments clinics.

Thus the scope for having pre-licensed locations in the LGA where promotional events might occur is limited.

It is also important to note that some events may (or may not) also require development consent under the *Environmental Planning and Assessment Act 1979*. Under the recommendation of officers, Council resolved to develop a planning proposal to further exempt event approvals. Noting the limited public locations available, and the length of time a planning proposal would take to progress to adoption, it is recommended that Council progress four (4) Development Applications in the following locations:

- Loyalty Square;
- Orange Grove Plaza;
- Outside Balmain Town Hall;
- Outside Leichhardt Town Hall.

These applications would act as a 'master approval' under which Council would issue separate Section 68 approvals to persons or parties who wanted to use the space.



It is recommended that this be trialled for a 12 month period, and upon review if successful a planning proposal be prepared, or further 'master' applications be lodged by Council for other locations.

Please note that community events on Council land are proposed to be largely exempt from a s68 approval and that minor promotional activity and retail trading outside of shopfront and business premises can be managed through normal footpath licencing (see further discussion below).

#### *1.2.b Community and council events on community land*

Part 1 of the Policy includes an exemption from approval for non-profit community based organisations for engaging in a trade or business on community land and other entertainment for the public on community land.

This sets aside the formal requirement for a Section 68 approval, and instead will be managed through Council's usual park booking process.

#### *1.2.c Live music*

Section 2 of the draft Policy also sets out how applications for outdoor dining on Council's footpath will be assessed. It includes advice that Council will permit live (including amplified) music in licenced outdoor dining area and footpath trading spaces. It includes advice that:

*The noise level from the music, when measured at the boundary of the nearest residential property must not exceed 5dBA above the ambient background level.*

*Any music must not be excessively loud and disrupt business trading including retail and establishments; affect workplace performance; or detract from residential or public amenity.*

The remainder of music in public areas is managed through Council's Busking Policy. The draft Local Approvals Policy also formally establishes that busking is exempt from requiring a Section 68 approval if a busking permit has been obtained from Council.

#### *1.2.d Retailing trading and merchandise on footpaths*

Council currently does not have a policy on retail trading on footpaths. The draft Policy (Part 2, Point 3) permits and provides guidance on retailing on public land. It is intended that licencing will still be required through a s68 and *Roads Act* approval, and stalls will be subject to the same location assessment criteria currently used for outdoor dining applications – namely, should be at the kerb edge unless special circumstances permit.

#### *1.2.e A-frames signage*

Council's regulation of A-Frame signage was omitted from the *Leichhardt Development Control Plan 2013*. The draft Policy provides guidance for these, and proposes that they be subject to the same location assessment criteria currently used for outdoor dining applications.

### **1.3 Notification requirements in the Leichhardt Development Control Plan 2013**

In relation to the notification of Activity Applications, the Leichhardt Development Control Plan 2013 states:

#### **A3.9 ACTIVITY APPLICATIONS**

##### **Controls**

.....

*C2 Notification for activity applications is limited to the following proposals on public land:*

- a. application to engage in a trade or business; and/or*
- b. provision of entertainment for the public including more than 1000 persons.*

#### **A3.13 SPECIFIC CIRCUMSTANCES WHERE NOTIFICATION IS NOT REQUIRED**

##### **Controls**

*The following do not require notification:*

.....

*C6 Activity applications for a waste storage container in a public place; and proposals that would also require approval under the Roads Act 1993 for A-frame signs and footpath occupations.*

While it is considered prudent to still publically notify activity applications for the provision of public entertainment for more than 1000 persons (clause 2b), there is scope to streamline the approvals process for engaging in a trade or business (which includes promotional events).

In line with the approach outlined above, it is recommended that Council exhibit an amendment to the *Leichhardt Development Control Plan 2013* which amends the wording of A3.9 as follows (note:red text is new and text with a strikethrough to be deleted):

#### **A3.9 ACTIVITY APPLICATIONS**

##### **Controls**

.....

*C2 Notification for activity applications **is only required for** ~~limited to~~ the following proposals on public land:*

- a. applications **to engage in a trade or business** ~~outside of the B1 Neighbourhood Centre and B2 Local Centre zoned Business areas under the Leichhardt Local Environmental Plan 2013;~~*
- b. ~~provision of entertainment for the public including more than 1000 persons. which~~ **that are not operating under a current development consent.***

#### **1.4 Public Exhibition of the draft Local Approvals Policy and draft Activity Notification amendment to Leichhardt Development Control Plan 2013**

Council is required to meet the legislative requirements of the Local Government Act 1993, the Local Government Regulation 2005 and the Environmental Planning and Assessment Regulation 2000 – Part 3, Division 2 Public Participation as follows:

##### *Draft Local Approvals Policy*

- Inclusion of a public notice in the local newspaper 7 days prior to the commencement of the exhibition period indicating the places, dates and times for inspection of the draft local approvals policy
- Exhibition of the draft local approvals policy for a minimum of 28 days
- Submission period to be for a minimum of 42 days
- Inclusion of a second public notice in the local newspaper not more than 14 days or less than 7 days prior to the conclusion of the 42 days minimum submission period

##### *Draft Activity Notification amendment to Leichhardt DCP*

- inclusion of a public notice in the local newspaper indicating the places, dates and times for inspection of the amendment to the Leichhardt Development Control Plan 2013;
- exhibition of the proposed amendment to Leichhardt Development Control Plan 2013 for a minimum period of 28 days.

The following activities will be undertaken in response to the Community Engagement Framework:

- website notice;
- advertisement in the Inner West Courier;
- report to Policy Meeting;
- public exhibition and submissions;
- briefing Planning and Urban Design Committee

The proposed draft Local Approval Policy and DCP amendment are considered to be minor and therefore public meetings and workshops and an LGA wide letter box drop will be unnecessary.

After completion of the public exhibition a review of submissions will be undertaken and the matter reported back to the July 2016 Policy Meeting.

#### **Attachments**

1. Draft Local Approvals Policy



## LOCAL APPROVALS POLICY

<b>Date Adopted:</b>	{To be inserted}
<b>Council or Corporate Policy</b>	Council Policy
<b>Responsible Division:</b>	Environment & Community Management
<b>Supporting documents, procedures &amp; forms of this policy:</b>	{To be inserted}
<b>References &amp; Legislation:</b>	Local Government Act 1993 Roads Act 1993 Local Government (General) Regulation 2005

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## 1 Purpose and Scope of Policy

This policy has been developed to supplement and facilitate the approvals process by establishing the criteria for specific approvals prescribed under the Local Government Act and for other miscellaneous activities

The document provides an outline of the matters relevant to obtaining an approval from the Council under the Local Government Act, setting the framework for types of activities and circumstances relevant for such applications. Similarly, the Local Approvals Policy provides the circumstances for exemptions from the need to gain an approval.

### Scope

This policy applies to all land within the Leichhardt local government area except for land at Rozelle comprised in Lot 1, Deposited Plan 807747 subject to the Callan Park (Special Provisions) Act 2002 and land known as the Bays Precinct subject to the State Environmental Planning Policy (State and Regional Development) 2011.

Note: Reference made to any Act, Regulation, planning instrument, standard or other document, or any authority, agency or the like shall be taken to be a reference to any subsequent or replacement document or authority.

Where there is an inconsistency between the Act or the Regulations and the Local Approvals Policy, the Act or the Regulations will prevail.

### The types of approvals to which the policy applies

The policy applies to approvals for activities listed in the Table to Section 68 of the *Local Government*

*Act 1993* as well as other ancillary activities that Council is delegated to regulate.

Under Section 68, approval by Council is required for the following activities:

**Table1 – Activities requiring Approval by Council under Section 68 of the Local Government Act 1993**

Part A Structures or places of public entertainment	
1	Install a manufactured home, moveable dwelling or associated structure on land
2, 3	(Repealed)
Part B Water supply, sewerage and stormwater drainage work	
1	Carry out water supply work
2	Draw water from a council water supply or a standpipe or sell water so drawn
3	Install, alter, disconnect or remove a meter connected to a service pipe
4	Carry out sewerage work
5	Carry out stormwater drainage work

6	Connect a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer
<b>Part C Management of waste</b>	
1	For fee or reward, transport waste over or under a public place
2	Place waste in a public place
3	Place a waste storage container in a public place
4	Dispose of waste into a sewer of the council
5	Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility
6	Operate a system of sewage management (within the meaning of section 68A)
<b>Part D Community land</b>	
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
<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
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)
<b>Part F Other activities</b>	
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)

<b>7</b>	Use a standing vehicle or any article for the purpose of selling any article in a public place
<b>8, 9</b>	(Repealed)
<b>10</b>	Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations

This section is in three parts:

**Part 1:** Exemptions – outlines the circumstances in which a person is not required to obtain a particular approval.

**Part 2:** General criteria for individual permit activities and the criteria which must be considered when determining applications.

**Part 3:** Other matters relating to applications and approvals

## 2 Part 1 – Exemptions

The exemptions outlined in this document are given in the belief that those activities can function effectively without Council involvement if the operator complies with all appropriate guidelines. The exemptions apply to those activities which are of a minor or common nature and which have minimal impact. This does not however prevent a person applying for approval to carry out an exempted activity specified in this part.

It is a condition of exemption that the person carrying out an activity specified in this part must comply with:

- i. the relevant exemption circumstances or requirements listed in the exemption table
- ii. the relevant performance standards prescribed in the Building Code of Australia or relevant Australian Standard

The exemption provisions do not apply to buildings or structures proposed to be erected over an existing easement or sewer main.

In relation to exempted activities, a person must give due consideration to the following:

- the amenity of adjoining landowners
- the location of a structure related to site boundaries, sewers, easements, rights or ways, other structures, etc
- the provision of adequate drainage
- any potential fire risks
- avoiding creating a harbourage for vermin
- structural stability
- external finishes

If subsequent activities involve an increase over and above the exemption circumstances shown in the exemption table, then approval will be required for the further activity.

### **DEFINITIONS**

**Table 2 - Definitions**

<b>Word/Term</b>	<b>Definition (with examples if required)</b>
Approval	means an approval under Section 68 of the <i>Local Government Act 1993</i>
Council	means Leichhardt Municipal Council
non-profit community based organisation	Means an organisation whose income, assets and surplus funds are used to achieve its objectives and are not distributed to members, owners or shareholders while it is operating and when it ceases to operate. The governing instruments to be recognised in this definition are: <ul style="list-style-type: none"> <li>• Incorporated associations;</li> <li>• Companies limited by guarantee;</li> <li>• Charities; and</li> <li>• Co-operatives.</li> </ul>

**Table 3 – Exemptions by Type of Activity**

<b>S68 Part B – Water Supply, sewerage and Stormwater Drainage Work</b>		
<b>Type of activity</b>	<b>Exemption circumstances/ requirements</b>	<b>Advisory Note</b>
<b>B1, B4</b>	Carry out water supply or sewage works	Prior to works commencing all work must be approved by Sydney Water or its nominee and comply with any applicable requirements of the <a href="#">Plumbing and Drainage Act 2017</a> or the regulations made under that Act
		Sydney Water is the approval authority within the Leichhardt area
<b>B5</b>	Carry out stormwater drainage work (This excludes works to existing water courses for which other legislation and policy applies)	<ul style="list-style-type: none"> <li>• Repairs to existing systems.</li> <li>• Work required in association with Development consent.</li> </ul>
		Should repair work be required on Council land, consultation with Council to obtain necessary ground opening permits or similar should be undertaken prior to works commencing.



S68 Part C – Management of Waste		
Type of activity	Exemption circumstances/ requirements	Advisory Note
C1	<p>For fee or reward, transport waste over or under a public place</p> <p>i) the activity is licensed under the <a href="#">Protection of the Environment Operations Act 1997</a> or</p> <p>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</p> <p>iii) the waste is being transported through the area of the council and is not being collected or deposited in that area.</p> <p>Note. A person who transports waste for fee or reward in circumstances that do not require a pollution control licence issued by the Environment Protection Authority must comply with the relevant requirements of the Regulations made under the <a href="#">Protection of the Environment Operations Act 1997</a>.</p>	<p>Clause 48 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.</p>
C2	<p>Place waste in a public place</p> <p>If it is done in accordance with arrangements instituted by Council via service arrangements to individual properties for waste collection.</p>	<p>Clause 48 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.</p> <p>Protection of Environment Operations Act regulatory and compliance provisions must be observed.</p>

Part D – Community Land		
Type of activity	Exemption circumstances/ requirements	Advisory Note
<p><b>D1</b></p> <p>Engage in a trade or business on community land</p>	<ul style="list-style-type: none"> <li>Activity is by a non-profit community based organisation; and</li> <li>The activity occurs in specially designated areas as determined by Council from time to time or in conjunction with a significant community event; and</li> <li>The activity does not involve the sale of unpackaged and potentially hazardous food. <i>Note: Seek advice from Council's Environmental Health Officers;</i></li> <li>The activity does not clash with any other previously booked event on the same land.</li> </ul> <p>Note: Use of Council's parks and reserves will require a Park booking approval</p>	<p>The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken.</p> <p>Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provision of this exemption. If food is being sold the "food business" should notify Council of their details.</p>
<p><b>D2</b></p> <p>Direct or procure a theatrical, musical or other entertainment for the public on community land</p>	<ul style="list-style-type: none"> <li>If the entertainment is associated with a current development consent or existing approved use of public lands; or</li> <li>The activity occurs in conjunction with a community event and is by a non-profit community based organisation or by Council; and</li> <li>The activity does not clash with any other previously booked event on the same land.</li> </ul> <p>Note: Use of Council's parks and reserves will require a Park booking approval</p>	<p>If the event contains fireworks appropriate permission must be gained from Work Cover NSW, and local fire authority to be notified of the event by the organiser.</p> <p>The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken.</p> <p>Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provision of this exemption.</p>

Part D – Community Land			
Type of activity	Exemption circumstances/ requirements	Advisory Note	
<b>D3</b>	Construct a temporary enclosure for the purpose of entertainment on community land	<ul style="list-style-type: none"> <li>If the enclosure is associated with a current development consent or existing approved use of public lands; or</li> <li>If the structures are "Exempt or Complying Development" under the <i>SEPP (Exempt &amp; Complying Development Codes) 2008</i>.</li> <li>The activity does not clash with any other previously booked event on the same land.</li> </ul> <p>Note: Use of Council's parks and reserves will require a Park booking approval</p>	The party erecting the enclosure must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the context in which the enclosure will be used. Council accepts no liability for any injury or damage associated with the enclosure under the provision of this exemption.
<b>D4</b>	For fee or reward, play a musical instrument or sing on community land	Busking or street theatre is exempt if a Busking Permit has been issued from Council.	Refer to Council's "Busking Policy" for additional information.
<b>D5</b>	Set up, operate or use a loudspeaker or sound amplifying device on community land	<ul style="list-style-type: none"> <li>Use must be associated with a current development consent, license or existing use rights for either land use or activity; or</li> <li>The activity occurs in conjunction with a community event; or</li> <li>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 and</li> <li>The activity does not clash with any other previously booked event on the same land.</li> </ul> <p>Note: Use of Council's parks and reserves will require a Park booking approval</p>	<p>Protection of Environment Operations Act regulatory and compliance provisions must be observed.</p> <p>Clause 49 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed</p>

D6	Deliver a public address or hold a religious service or public meeting	Use must be associated with a current development consent, or existing use rights for either land use or activity.	Protection of Environment Operations Act regulatory and compliance provisions must be observed.
<b>S68 Part E Public Roads</b>			
<i>Type of activity</i>	<i>Exemption circumstances / requirements</i>	<i>Advisory Note</i>	
E2	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 exemption, unless approval has already been obtained from Council under <i>Roads Act 1993</i>	

S68 Part F Other activities			
Type of activity	Exemption circumstances/ requirements	Advisory Note	
F1	Operate a public car park	<p>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.</p> <p>In this clause, development consent has the same meaning as it has in the <a href="#">Environmental Planning and Assessment Act 1979</a>.</p>	<p>Clause 66 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.</p>
F4	Install a domestic oil or solid fuel heating appliance, other than a portable appliance	<p>A domestic oil or solid fuel heating appliance (other than a portable appliance) may be installed without the prior approval of the council where:</p> <ul style="list-style-type: none"> <li>• If details of the appliance are included in plans and specifications for the relevant building approved under Part 4A of the <a href="#">Environmental Planning and Assessment Act 1979</a>, or</li> <li>• The domestic solid fuel heating device is installed to comply with the emission standards of Australian Standard AS4013:1999.</li> <li>• The domestic solid fuel heating appliance is installed in accordance with the manufacturer's specifications; the requirements of the Building Code of Australia and Australian Standard AS2918:2001.</li> <li>• The appliance is operated in accordance with the requirements of the Protection of the Environment Operations Act 1997. Where the subject premises are located within a designated bushfire prone area, the discharge point of the flue shall be fitted with a copper gauze with openings of a size to prevent the possible discharge of air borne embers that may give rise to a fire external to the house.</li> </ul>	<p>Clause 70 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.</p>

S68 Part F Other activities			
Type of activity	Exemption circumstances/ requirements	Advisory Note	
F5	<p>Install or operate a small amusement device</p>	<p>A small amusement device may be installed or operated in Council's Parks and Reserves without the prior approval of the council if:</p> <ul style="list-style-type: none"> <li>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 the device is not required to be registered under the <a href="#">Work Health and Safety Regulation 2011</a> and in the case of a device that is to be or is installed in a building, fire egress is not obstructed.</li> </ul> <p>Note: Use of Council's parks and reserves will require a Park booking approval</p>	<p>'Small amusement device' means an amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as mini-ferris wheels, battery operated cars and miniature railways but, in the case of rotating amusement devices, includes only those devices that have a maximum rotation of 14 revolutions per minute</p> <p>Clause 75 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed</p> <p>The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken.</p>
F7	<p>Use a standing vehicle or any article for the purpose of selling any article in a public place</p>	<ul style="list-style-type: none"> <li>The activity is undertaken by non-profit community-based organisations; and</li> <li>The activity occurs in designated areas as determined by Council from time to time or in conjunction with a community event. If food is being sold, then the "food business" must be registered with Council; and</li> <li>The activity does not clash with any other park booking (if in a park) and must comply with park restrictions (if on a road).</li> </ul> <p>Note: Use of Council's parks and reserves will require a Park booking approval</p>	<p>The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken. Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provision of this exemption. If food is being sold, the "food business" should notify the Council of their details.</p> <p>Street stall booking applications is required to be submitted and approved by Council.</p>

### **3 Part 2 – Criteria That Council Must Consider When Determining Applications**

#### **(a) General criteria for consideration under the regulations**

The regulations to 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.

#### **Sewage and stormwater drainage activities**

Clause 13 of the Local Government (General) Regulation 2005 specifies that Council must not approve an application for an approval allowing sewage or stormwater drainage work to be carried out unless it is satisfied that the activity as proposed will comply with applicable standards as set out in the regulation.

Clause 15 of the Local Government (General) Regulation 2005 specifies that Council must consider the following matters when determining applications for sewage and stormwater drainage approvals:

- (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, Subdivision 1 of the Local Government (General) Regulation 2005 specifies mandatory standards, including that such works must comply with any other 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 the Regulation.

#### **To discharge waste into sewers; concurrence required**

Clause 28 of the Local Government (General) Regulation 2005 specifies that Council must not grant an approval under section 68 of the Act to discharge trade waste into a sewer unless the Director General of the department concerned has concurred with the approval.

#### **Place a building waste container on a road**

Clause 27 of the Local Government (General) Regulation 2005 specifies that Council, in determining an application for approval to place on a road a building waste storage container, must take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to Council from time to time by the NSW Roads and Maritime Services Department.

#### **Applications relating to public roads**

Clause 50 of the Local Government (General) Regulation 2005 specifies that Council, in determining an application under Part E of the table to section 68 of the Act, must take into account:

- 1) the provisions of the Roads Act 1993, and

- 2) any relevant standards and policies of public authorities applying to the use of the road.

**Applications relating to operation of public car parks**

Clause 53 of the Local Government (General) Regulation 2005 specifies that Council, in determining an application for approval to operate a public car park, must take into consideration:

- (a) the NSW Roads and Maritime Services Department 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

**Applications relating to approval to install or operate an amusement device**

Clause 72 of the Local Government (General) Regulation 2005 specifies that Council must not grant an application for an approval to install or operate an amusement device unless it is satisfied:

- (a) that 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
- (b) that the device is registered under the [Work Health and Safety Regulation 2011](#) and
- (c) that the device is to be or has been erected in accordance with all conditions (if any) relating to its erection set out in the current certificate of registration issued for the device under that Regulation, and
- (d) that there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and
- (e) that there is in force a contract of insurance or indemnity for the device that complies with clause 74 of the Regulation, which in turn requires 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



**(b) Other applications having criteria not set under the Local Government (General) Regulation**

**Activities on Footpaths**

**1. Outdoor Dining (s68 Item E2; s125 Roads Act)**

All food premises that intend to provide seating on the public footway for the purpose of outdoor dining are required to submit an application to Council for approval under Section 125 of the *Roads Act 1993*.

Live music is permitted in outdoor dining areas and licenced retail trading areas in the B1 & B2 zones under the Leichhardt Local Environmental Plan 2013. The noise level from the music, when measured at the boundary of the nearest residential property must not exceed 5dBA above the ambient background level.

Any music must not be excessively loud and disrupt business trading including retail and establishments; affect workplace performance; or detract from residential or public amenity.

Applications will be assessed against the criteria in *Section 4.20 – Outdoor Dining Areas* of the Leichhardt Development Control Plan 2013.

**2. A-Frames (s68 Item E2)**

A Frame signs are permitted in the B1 & B2 zones subject to approval granted by Section 68 Part E2 Public Roads of the Local Government Act 1993.

The A Frame sign:

- Must be located in the same areas designated for footpath dining in *Section 4.20 – Outdoor Dining Areas* of the Leichhardt Development Control Plan 2013 (see figures C132 and C133):
  - should be located beside the kerb unless there is insufficient space or footpath width, the site is adjacent to a bus stop, taxi stand or disabled parking space or where the location would adversely impact on the continuous path of travel
  - Building line signage may be considered where site specific conditions preclude kerbside signage
  - A 600mm setback is required to the kerb to allow for passengers alighting from cars and the like.
  - Signage shall not to present an unreasonable hazard to pedestrians (including those that use mobility aids), diners or vehicular traffic.
- Must be professionally manufactured to high standard in keeping with local amenity and must not exceed the following dimensions, minimum height 750mm, maximum height 1100mm, maximum width 600mm;
- Must be safely anchored, secured or counterweighted to ensure stability during inclement weather.
- Should minimise the extent of visual clutter and enhance the surrounding urban character.
- Must relate to an approved or lawful use;
- Must not contravene any development consent applying to the property
- Must not display offensive, violent, obscene or include discriminatory text or graphics;
- Sign must relate to the business conducted on the premises or goods/services sold at the

premises

Only one A Frame sign per business will be permitted.

### **3. Retail Trading and Merchandise on Footpaths (s68 Item E2)**

Retail trading and merchandise stalls are permitted subject to approval by Council under Section 68 Part E Public Roads Paragraph 2 of the *Local Government Act 1993* subject to the following conditions:

- A 1.8 metre wide unobstructed section of footpath is to be maintained at all times. In some instances this distance may be reduced where the applicant can demonstrate that there is an accessible path of travel and that there will be no increased impact on pedestrian access when the goods are in place.
- Goods displayed must relate to the business conducted at the premises; be contained within the property side boundary; and be located so as not to obstruct any doorway.
- Must be located in the same areas designated for footpath dining in *Section 4.20 – Outdoor Dining Areas* of the Leichhardt Development Control Plan 2013 (see figures C132 and C133).
- Any food including tin and packaged goods displayed shall be at a height not less than 750mm above the footpath level.
- Perishable food such as meat, fish, poultry, dairy products, eggs, cooked rice or shellfish cannot be displayed however fresh fruit and vegetables, flowers and tinned or packaged goods are permitted subject to compliance with NSW Food Authority food handling regulations
- Goods and / or display stands must not be more than 2 metres above footpath level.
- All goods and / or display stands shall be secured to prevent them from being moved by wind or other forces and finished with no part protruding beyond the main body of the stand with no sharp corners or trip hazards.
- All goods and / or display stands must be removed from the footpath when premises are closed.
- The area is to be maintained in a clean condition at all times. Waste generated is to be disposed of via the host premises and not into the gutter or street bins.
- No spruiking of goods or touting is permitted.

### **4. Community and Promotional Events (s.68 Item F7; s139A Roads Act)**

#### Applications for community and promotional (for profit) events

Temporary uses in the public domain, including commercial events such as product launches and sampling in B1 & B2 zones under the LEP 2013, are permitted subject to approval under Section 68 Part E Public Roads Paragraph 2 and Part F Other Activities Paragraph 7 of the *Local Government Act 1993* subject to the following conditions:

- a) The use must have an active development consent.
- b) The period of the use must be for not more than 2 consecutive days, from the start of set-up to the completion of clean-up for the use, and the location must not be used for more than 12 days in any calendar year, except in the instance of Loyalty Square; outside Balmain and Leichhardt Town Halls and Orange Grove Plaza.

- (c) There must be no permanent physical change to the fabric of the location where the use occurs,
- (d) Emergency vehicle access must be maintained to and around the location at all times,
- (e) Pedestrian access must be maintained along existing footpaths at the location or barriers must be erected between alternative pedestrian pathways and traffic on any adjoining road,
- (f) The use must not occur before 7.30 am or after 10pm on any day.
- (g) Set-up time for the use must not start earlier than 6.00 am, or end later than midnight, on any day,
- (h) Clean up time for the use must end no later than 2 hours after the use was to stop occurring under paragraph (i) Must be a an existing business within the Leichhardt LGA
- (i) Temporary signs (including freestanding banners):
  - (i) must not be more than 2.5m in height, and
  - (ii) must not be larger than 1.2m by 2.4m, and
  - (iii) must not be displayed for more than 7 days before the use starts, and
  - (iv) must be removed immediately after the use ends.
- (k) Any mobile structures or equipment installed as part of the event, such as video screens, communications equipment are to be erected or installed on level ground with secure footings and are to be located so as not to obstruct pedestrian paths of travel.
- l) The noise level from the use, when measured at the boundary of the nearest residential property must not exceed 5dBA above the ambient background level.
- m) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000 that covers the activities involved and the context in which they will be undertaken.

#### 4 Part 3 – Other Matters Relating to Approvals

##### Standard conditions

The Local Government (General) Regulation 2005 prescribes standard conditions for activity approvals involving public entertainment, sewage and stormwater drainage. The Local Government (Manufactured Home Estate, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2005 prescribes standard conditions for approvals for caravan parks and camping grounds.

The standard conditions prescribed by the Regulations are quite detailed and they have not been reproduced within this document. Copies of the Regulations are available from the internet at

<http://www.legislation.nsw.gov.au/>

##### When does an approval or exemption 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:

- 1) The approval states otherwise; or
- 2) The activity has been physically substantially commenced within the meaning of the applicable act.

An extension of an approval may be granted if:

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

##### Exemptions

Any exemption under this Local Approvals Policy or the regulations, has no effect unless all the specified conditions of the exemption are met. Any breach of the conditions would mean that the exemption provisions no longer apply to the activity or activities involved.

Exemption provisions within the Local Approvals Policy cease to have effect once the policy lapses.

## 5 Policy Review

Pursuant to Section 165(4) of the Local Government Act 1993, this Policy is automatically revoked at the expiration of 12 months after the declaration of the poll for a general election.

## 6 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	<i>(the date the policy takes effect)</i>	<i>Contact person – full name &amp; title.</i>	First Version