



Part C – Specific Land Use Controls

# Chapter C15: Retail Markets

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## 1 INTRODUCTION

1. This chapter of the DCP outlines Council's general requirements for the proposed establishment and operation of a retail market upon any land within Wollongong Local Government Area.
2. This chapter of the DCP should be read in conjunction with the relevant LEP applying to the site, to determine the zoning of the subject land and the permissibility for the establishment of a retail market.

## 2 OBJECTIVES

1. The objectives of this part of the DCP are:
  - (a) To control the type, location and impact of retail markets within the Wollongong Local Government Area; and
  - (b) To reinforce Council's retail hierarchy strategy whilst providing retail market opportunities in appropriate locations for the benefit of residents in Wollongong Local Government Area and the wider Illawarra Region.

## 3 RETAIL IMPACT ASSESSMENT

1. Any Development Application for a proposed major retail market (ie involving more than 20 stalls) will require the submission of documentary evidence as to the reasons why the retail market is proposed in a specific location and evidence as to the proposal's relationship with Council's retail hierarchy strategy contained in Chapter B4: Development in the Business Zones of this DCP.
2. Council will consider whether any large (non-charitable) retail market will pose a significant adverse economic impact upon any existing or planned retail centre and as part of this assessment whether the retail market will provide a net benefit to the wider community.

## 4 HOURS OF OPERATION

1. The operation of retail markets will generally be limited to either Fridays, Saturdays and Sundays and / or Public Holidays between the hours of 8.00 am to 6.00 pm. The setting up of any market stall may take place from 7.00 am on the day of the market, except where the land to which the proposed market, either directly adjoins or is opposite any residential zoned land, in which case stall holders will only be allowed to set up from 8.00 am onwards.

## 5 CAR PARKING REQUIREMENTS

1. The car parking requirement for a retail market is one (1) car parking space per 20m<sup>2</sup> of each stall area. However, major retail markets involving 20 or more stalls may require additional parking, taking into account the number of stalls proposed and the location of the markets and the availability of on-street parking or existing public car parking within the immediate locality.
2. Any proponent intending to operate a retail market involving 20 or more stalls, should organise a formal pre-lodgement meeting with staff from Council's City Planning Division, in order to discuss the exact car parking requirements for the specific retail market.

## 6 MARKETS HELD ON PUBLIC LAND

1. Council will not grant consent for any Development Application for the use of any Council hall or community facility for commercial retailing unless it is satisfied that:
  - (a) A proportion of the proceeds of the sale is to be used for charitable purposes; or
  - (b) The sale is conducted by a charity organisation.
2. Any market proposed to be held on a public reserve under the ownership or care and control of Wollongong City Council must be consistent with any Plan of Management for the subject public reserve.
3. Any approval for a market upon land owned or under the care and control of Council will also be subject to a limited 12 month trial period initially. Council at this time will re-assess the performance of the market throughout the initial 12 month period, in order to determine as to whether a further lease will be granted.

In the event that the Development Application is ultimately approved for the proposed market, the market organiser will be required to organise a lease agreement with Council's Property and Leisure Division.

4. The rental fee for the use of Council land for the purposes of a retail market shall be at the market value and will be determined through independent valuation.
5. A Park Booking through Council's Property and Leisure Division is required if the market is proposed to be held on a public reserve.
6. The market organiser will be required to provide appropriate insurance coverage to indemnify Council against any public liability claim that may arise from the use of the public reserve. The public liability risk insurance policy will be required to be maintained throughout the life of the market operation and shall have a minimum \$10 Million public liability insurance coverage, at all times. A Certificate of Currency must be submitted to Council annually. Requirements for insurance coverage may also change on an annual basis depending on advice from Council's Insurance Broker.
7. Any approval will also be subject to a condition requiring that any damage caused to Council's land shall be rectified at the full cost by the operator. Any such repair work will be undertaken in accordance with the requirements of Council's City Works Division. The failure by the business operator to adhere to undertake any repair work in accordance with the requirements of Council's City Works Division may result in the termination of the lease.

## 7 SALE OF GOODS

1. In the event that the retail market application is ultimately approved, the market organiser will be responsible for the checking that all stall holders are appropriately licensed. For example, a second hand dealer's license may be required to be obtained from the Office of Fair Trading (NSW Department of Commerce) for stall holders involved in the purchasing and subsequent sale of certain second hand items or goods.

## 8 FOOD STALLS /MOBILE FOOD VANS

1. Under the Food Act 2003, all food handling businesses including food stall holders at temporary, periodic markets in NSW are required to notify the NSW Food Authority of their

business details. However, food handling businesses which are directly licensed by the NSW Food Authority are exempt from the notification process.

The NSW Food Act 2003 may be viewed at the following website:

[www.austlii.edu.au/au/legis/nsw/consol\\_act/fa200357/](http://www.austlii.edu.au/au/legis/nsw/consol_act/fa200357/)

2. All food stall operators can register their business details with the NSW Food Authority. Regular stallholders can register their business via the NSW Food Authority's notification website at: [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).
3. Market organisers are responsible for the registration of all casual stallholders prior to their operation of any such stall.

Note: The only exception from registration with the NSW Food Authority for food stalls involves food stalls run by charities and community groups which are holding a fund raising event that is not for profit.

4. Temporary food outlets must also comply with Council's -
  - (a) Food Premises Code;
  - (b) Temporary Food Premises Code; or
  - (c) Food Vending Vehicles Code, as applicable.

Copies of Council's Food Codes are available from Council's Regulation & Enforcement Division (Health and Ranger Services Section).

5. The hygiene and food safety requirements are available from Food Standards Australia New Zealand in the form of a book entitled "Safe Food Australia, A Guide to the Food Safety Standards". This document may be downloaded from the FSANZ website at [www.foodstandards.gov.au](http://www.foodstandards.gov.au).
6. All take away foods must be prepared for immediate sale and consumption unless a food warmer or cold food display is provided. Particular attention is drawn to the requirements for keeping food out of the food danger zone by storing at a temperature of 5° C (cold food) or less or at 60° C or more (hot food).
7. Raw food waiting cooking and foods which have been cooked shall not be displayed outside the stall.
8. Cooking and heating equipment shall be contained within the stall and not within the reach of the general public.
9. The cooking area is to be kept free of dust borne contamination and droplet infection.
10. All food stored inside the stall shall be stored at least 750mm above the ground and in covered or enclosed containers.
11. Food shall not be displayed so as to be openly accessible by the public. A physical barrier shall be provided by means of sandwich display type counters, Perspex glass guards and / or clear Perspex siding to the stall.
12. Takeaway food stalls shall provide appropriate screening or shielding of the stall, in order to protect food from direct sunlight.

13. All pre-packed foodstuffs shall be labelled in accordance with the provisions of the Australian New Zealand Food Standards Code Chapters 1 and 2.
14. An adequate supply of potable water is required to be available for all stall holders, including food outlets.
15. Inspections of stalls are conducted by Council's officers from the Regulation and Enforcement Division on a regular basis, in order to ensure compliance with the food safety and hygiene standards.
16. The gas installation on any food vehicle shall be installed by a licensed gasfitter. The installation shall comply with the appropriate provisions of Australian Standard AS 1596 – 1997 Storage and Handling of LP Gas and Australian Standard AS 5601 – 2000 Gas Installations.
17. A fire extinguisher (5.5 kg carbon dioxide) and a fire blanket (1800 mm x 3200mm in dimension) shall also be provided at a convenient location within each takeaway food stall.

## 9 AMUSEMENT DEVICES

1. If the market includes the provision of amusement devices, the following information must be in place, prior to the use of each amusement device:
  - (a) Section 68 Activity Application approval issued by Council.
  - (b) Current NSW WorkCover Authority registration in place for the amusement device;
  - (c) Public liability insurance cover in place for each amusement (Minimum \$10 million public liability insurance); and
  - (d) The installation of the amusement device in accordance with the procedures and specifications contained in any written technical manual / instructions; and
  - (e) Appropriate public safety precautions being put in place to minimise any potential public safety issue during the operation of amusement rides or devices.
2. Applicants are also advised to check the requirements of the NSW WorkCover Authority for any temporary structures, including stages.

## 10 ACCESSIBILITY TO THE EVENT BY PEOPLE WITH A DISABILITY

1. All retail markets should be designed to ensure accessibility to the market by people with a disability. Accordingly, the provision of special parking areas for disabled people and accessible facilities such as toilets and food and drink counters are required.
2. The provision of hearing loops or Auslan (sign language) interpreters for people with a disability impairment may be appropriate for larger retail markets.
3. The provision of information in large print and / or Braille for people with a visual impairment is also recommended for larger on-going markets.

## 11 COPYRIGHT ISSUES – LIVE OR PRE-RECORDED MUSIC

1. Music is generally protected by copyright. Accordingly, if a market proposes to use live music or pre-recorded music, then appropriate licensing may be required to be obtained.
2. Should the retail market propose to have live music, a licence will be required from the Australian Performing Rights Association (APRA). Recorded music (either a recording or music video) is generally protected by two types of copyright so if any recorded music is proposed at your event, appropriate licensing will need to be obtained from both APRA and the Phonographic Performance Company of Australia (PPCA).

Further information concerning licensing requirements may be obtained from Australian Performing Rights Association (APRA) via telephone number (02) 9935 7900 or via the website at: [www.apra.com.au](http://www.apra.com.au).

The Phonographic Performance Company of Australia (PPCA) may also be contacted via telephone number (02) 8569 1111 or via the website at: [www.pcca.com.au/licensing.htm](http://www.pcca.com.au/licensing.htm) for licensing requirements for recorded music.

## 12 FUNDRAISING MARKET EVENTS

1. The approval of the NSW Department of Arts, Sport and Recreation (Office of Liquor, Gaming and Racing) may be required for fundraising at a market.
2. Further information concerning licensing requirements for fundraising events may be obtained from the NSW Department of Arts, Sport and Recreation (Office of Liquor, Gaming and Racing) via telephone number (02) 9995 0300 or via the website at: [www.olgr.nsw.gov.au](http://www.olgr.nsw.gov.au)

## 13 PUBLIC LIABILITY INSURANCE

1. In the event that formal development consent is granted by Council for the operation of the market, a condition of consent will be imposed requiring the provision of suitable public liability insurance coverage for the event.
2. The minimum public liability insurance cover required for a market will be \$10,000,000. However, large scale events or those held on Council property may require greater insurance cover.
3. If the market is held on Council owned land, the applicant's insurance policy must include a provision indemnifying Council against any claim arising from or incidental to the holding or conducting of the market.
4. A copy of the public liability insurance policy (certificate of currency) is to be provided to Council at least 14 days in advance of the date of commencement of the market. A receipt for payment of an insurance premium will not be accepted. The market will not be permitted to commence on any Council property without the public liability insurance policy (certificate of currency) being submitted to Council, prior to the market.
5. Examples of other insurance coverage that may also be necessary for a market include:
  - Public liability insurance of any sub-contractor;
  - Volunteer's insurance;
  - Worker's compensation;

- Professional indemnity insurance.

Accordingly, each organiser of a market is recommended to seek their own legal advice as to what insurance coverage is necessary for the operation of their market.

6. The main organiser of the market should also guarantee that all stall holders participating in the market have suitable insurance coverage in place.
7. All stall holders and / or operators of any mechanical ride or amusement device or any animal ride must hold an individual public liability policy specifically related to that ride or device and include a provision indemnifying Council against any claim arising from the ride or amusement device where the ride or amusement device is undertaken on land owned or under the care and control of Council.

## 14 INCIDENT REPORTING

1. A systematic method reporting incidents that have occurred at an event is required. This should include a written incident reporting manual whereby all management staff and / or stall holders are required provide written details on the exact nature of the incident and what procedures were implemented to deal with the incident.

## 15 EMERGENCY RESPONSE PLAN

1. A written Emergency Response Plan is to be provided at the Development Application stage for all large retail markets involving 40 or more stalls.
2. The Emergency Response Plan for all large retail markets is to be provided to all key stakeholders including all staff and stall holders of the markets, NSW Police Service, NSW Fire Brigades, NSW Ambulance Service, Council and the NSW WorkCover Authority. Security and other staff must be familiar with all emergency procedures contained in the Emergency Response Plan.
3. For major retail market events, the Emergency Response Plan is required to be prepared in accordance with the requirements of the Local Area Command of the NSW Police Service, NSW Fire Brigades, NSW Ambulance Service, NSW WorkCover Authority and Council.
4. The contents of the Emergency Response Plan will vary depending upon the scale and nature of the proposed markets but should include the following requirements:
  - Contact details (Telephone Number, Mobile Phone Number and Postal Address) of both the event organiser and the on-site organiser responsible for decision-making;
  - The chain of command identifying which staff are responsible for various components of the event;
  - Location of the main emergency response area;
  - Proposed means of access for all emergency vehicles including fire brigade truck access to the event;
  - Proposed evacuation procedures;
  - Proposed security management and procedures plan;



- Proposed emergency procedures shall include consideration of people with disabilities who may have special needs in case of an emergency; and
- Proposed crowd management procedures.

In particular, permanent access for emergency vehicles to and from the premises must be provided.

5. Emergency services, including Police, Fire, Ambulance and Bush Fire Services, shall be advised of the market event no less than 24 hours prior to the market event.

## **16 GROUND MAINTENANCE**

1. The market organiser is responsible for reinstating any Council land to a satisfactory condition as determined by Council, immediately after each market. Therefore, it is recommended that the market organiser ensure all stall holders are strictly controlled in their vehicle movement, stall erection etc, particularly during or after periods of wet weather.

## **17 MINIMUM INFORMATION REQUIRED TO BE LODGED WITH A DEVELOPMENT APPLICATION FOR A RETAIL MARKET**

1. Any Development Application for a retail market must be accompanied by a Statement of Environmental Effects together with an appropriate site plan and floor layout plans (ie at a 1:100 or 1:200 scale) which show the exact location of all stalls, food outlets, toilet facilities, other amenities and the car parking arrangement for the proposed market.
2. The Statement of Environmental Effects (SEE) must provide full details of the nature and scale of the proposed retail market including (but not necessarily limited to) the following matters:
  - (a) The nature and purpose of the proposed retail market (ie whether the market is charity based or is for commercial purposes) including details as to frequency and duration of the market;
  - (b) The proposed number and type of stalls and / or the size of the trading area;
  - (c) The proposed frequency of the retail market throughout a 12 month period and the proposed hours of operation of the retail market for specific days;
  - (d) The proposed number of employees (including proposed number of security staff, if any);
  - (e) The proposed car parking arrangements and associated traffic management practices to be employed, in order to minimise any potential adverse traffic impact upon the local road network;
  - (f) The proposed waste management and recycling measures and site cleanup measures to be implemented;
  - (g) A risk management plan outlining potential hazards / risks associated with running of the various types of stalls within the market; and
  - (h) Emergency Response Plan for larger retail markets.