



# FARMERS MARKET GUIDELINES

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## 1 Introduction

Lismore City Council has an adopted '*Approvals and Use of Land Owned or Managed by Council*' Policy. This guideline has been made under that policy to assist staff, farmers' market organisers, businesses and residents in understanding the assessment and operational framework for busking and spruiking. The aim of this guideline is to recognise the importance of farmers markets in promoting healthy lifestyles and encouraging local food production, distribution and consumption while also recognising the importance of having a structured policy framework in place to minimise complaints, criticism and other issues relating to the ambience and amenity of public spaces.

## 2 Objectives

The objectives of this guideline are to:

- support Councils Policy '*Approvals and Use of Land Owned or Managed by Council*'.
- support farmers markets to enhance the vibrancy, vitality, diversity and ambience of public spaces
- provide certainty and self-regulation to farmers markets within a clearly understood, fair and transparent operating framework
- maintain existing levels of public amenity
- minimise complaints, criticism and other problems associated with farmers markets
- facilitate regulated use of public spaces
- clearly distinguish the concept of a farmers' market from other markets, both retail and wholesale
- allow consumers to access fresh, locally produced food products direct from the grower
- support consumer awareness, so that the public has confidence in the authenticity of producers i.e. that the person they are transacting with is the person who grew or made the produce or that the person at the stall can answer questions regarding the produce and place where it was grown, foraged or made.

## 3 Scope

The '*Approvals and Use of Land Owned or Managed by Council*' Policy applies to all land under the management control of Lismore City Council and is designed to identify the minimum requirements in relation to seeking approval to operate farmers markets.

The key principle embodied in this policy is that farmers market projects should be initiated, designed, and operated by the local community with support from Council.

Farmers markets allow consumers to access fresh, locally produced food products direct from the grower and contributes to:

- local economic growth
- food security
- food and nutrition education
- the economic, social and health capital of the host community
- business incubation
- the preservation of farmland and sustainable agriculture
- the consumption of fresh, locally produced food
- promote cultural diversity through food
- reduced food miles.

#### 4 Definitions

The following definitions are provided to assist in understanding the requirements of this policy.

**Farmers market** - is a predominantly fresh food market that operates regularly within a community, at a focal public location that provides a suitable environment for farmers and food producers to sell farm-origin and associated value-added processed food products directly to customers.

**Genetically modified crops** - “Genetically modified” crops (also referred to as genetically engineered (GE) crops or genetically modified organisms (GMO)) are crop cultivars or varieties that have been modified by a process of artificially inserting specific genes from a source organism into the gene sequence of another, with the purpose of producing specific traits in the resulting crop.

**Itinerant food vendor** - a person who has a vehicle, cart or stall used for the sale of food and which travels from place to place.

**Potentially hazardous food** - refers to food that has to be kept at certain temperatures to minimise the growth of any pathogenic micro-organisms that may be present in the food or to prevent the formation of toxins in the food.

**Public area** - an area set aside for public recreation on Council owned and/or managed land, including children’s playgrounds, covered bus stops and taxi ranks, public jetties, patrolled beaches, sporting fields, sports stadiums and centres, public swimming pools, squash courts, tennis courts, croquet lawns, community buildings, and footpaths within areas of commercial zoning.

#### 5 Assessment Guidelines

In assessing an application for farmers markets, the following matters will be considered:

- a) Council has a strong commitment to the production and supply of safe food to all consumers in the community.
- b) Council has a strong commitment to phasing out single use plastics at all markets and events.
- c) Council will determine through its Local Environmental Plan zonings which:
  - (i) allow farmers markets with development consent (i.e. require the submission of a development application) or approvals (requires a formal application and compliance with a set of conditions).
  - (ii) prohibit farmers markets.
- d) Council requires a formal application and approvals process to allow farmers markets to occur to ensure suitable locations are utilised, pedestrian movement is maintained, waste is managed appropriately and the retail sector is supported.
- e) Council will determine appropriate fees in accordance with the relevant Policy for an agreement / approval, licence or lease to operate farmers markets on public land. Alternatively, Council may decide to waive any such fees.
- f) Applicants will enter a formalised agreement / approval, licence or lease with Council should their application be successful.
- g) All proponents will have public liability cover of \$10,000,000 or be auspiced by an organisation with public liability cover of \$10,000,000
- h) Farmers markets will generally run for 3-4 hours and all temporary infrastructure will need to be removed and the site returned to its original state at the conclusion of the market. Setup periods either side of the proposed hours will be considered for a maximum period of 30 minutes and trading may be undertaken during these fringe periods.

- i) Council reserves the right to conduct inspections to ensure that all stallholders are registered with the NSW Food Authority (a free on-line form is available at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au). A helpline has been established for further assistance on 1300 650 124). If Council considers a stall to be non-compliant it is the Farmers market organiser responsibility to ensure the stallholder ceases trade immediately.
- j) Farmers market infrastructure, including signage, must not interfere with overhead or underground services.
- k) Itinerant food vendors and mobile food vehicles need to ensure they have all appropriate licences from Council as per the Food Act 1993.
- l) Council requires that **all** food stalls selling “potentially hazardous foods” submit a *Food Safety Plan*.
- m) Council may impose restrictions on smoking in public areas, including those used for farmers markets.
- n) The location of each marquee / stall space shall be designated with sufficient markings on the pavement to clearly indicate the location of each designated stall space. Each individual marquee / stall is to be located wholly within the marked confines of the designated stall space.
- o) There will at all times be a minimum width of 2 metres between the market stalls and any buildings to provide a continuous accessible path of travel. The siting of the market stalls are not to create obstruction, restrict, or impede the free use of the footpath by pedestrians.
- p) Any temporary structures are to be erected in accordance with good building purposes, be structurally adequate and in accordance with the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Part 2 Exempt and Complying Development Division 3 Temporary Uses and Structures Exempt Development Code*” or alternatively obtain the appropriate approval.
- q) The area is to be cleaned and left in a tidy condition upon completion of the event. All waste generated at the event and activities ancillary to the event must be appropriately managed to prevent any littering and to ensure no other nuisances are caused. Organic and recycling bins to be used when available.
- r) Council may impose restrictions on days and or times of farmers market operation so as to maximise opportunities for stallholders to provide and consumers to access local foods whilst avoiding competition between markets.
- s) No more than 20% of the total number of stalls at Farmers/Produce Markets are permitted to sell prepared hot food and coffee, and all produce sold at the Farmers/Produce Markets is to be sourced from local produce from the Northern Rivers.

## 6 Licence fee

The following fees are based on permission being sought and granted for approval to operate a market based on 6 days per week. Durations of less than this time period will be charged on a daily basis (i.e. Market on 1 day per week = 1/6 of annual fee).

### Tier 1 Nimbin and LGA outlying Villages

Proposed Fee per square metre (excluding GST) per annum as stated in Council’s *Fees and Charges* at that time (based on 6 days/week). Excludes areas of unobstructed footways.

### Tier 2 Lismore

Proposed Fee per square metre (excluding GST) per annum as stated in Council’s *Fees and Charges* at that time (based on 6 days/week). Excludes areas of unobstructed footways.

It is intended that licence fees shall be adjusted annually in accordance with the movements in the Consumer Price Index. Fees will be assessed periodically and may be adjusted and will be advertised in Council's fees and charges.

## **7 Application Process**

These guidelines developed by Council will assist in establishing farmers markets that are effective, enjoyable and safe for all.

Before you get started on operating your farmers market, consider the 3-step process below.

### **Step 1 - Securing a Suitable and Safe Site**

Prior to making final decisions on your farmers market project, it is recommended you contact Council on 1300 87 83 87. To assist in this regard please refer to Attachment 1 that provides a self-assessment checklist of preliminary matters to consider.

A site meeting can help you work through your objectives for the site, help identify any site constraints and actively assist you in getting any necessary approvals from relevant Council departments and/or other government departments where required e.g. the RTA.

It should be noted that there may be some instances where approval may not be given to operate your farmers market in the location you originally thought suitable.

The Council can provide advice and assistance on the following:

- means of gaining local support for your initiative
- preferred types of sites and locations for farmers markets
- how you can address potential hazards for pedestrians and other traffic
- ensuring that appropriate lines of sight for traffic, access for pedestrians and servicing of local infrastructure are maintained
- the design and construction of the farmers market stalls and
- any safety issues you need to consider and safety devices you need to use during the operation of your farmers market.

### **Step 2 – What items will be sold at the farmers market?**

You need to consider the items that will be sold at the farmers market. Sale will not be permitted of items that are on the prohibited items list at Attachment 2. For further information relating to food items see *8 Food Safety* below.

### **Step 3 – Approval by Council**

Before you start operating the farmers market, you need to complete an application form.

The application form will outline the following:

- the proposed location and layout of the farmers market
- how you engaged neighbouring residents in planning for your initiative
- any relevant feedback expressed by neighbouring residents and
- Name and contact details of the person nominated as the primary contact in relation to the operation of the farmers market.

Once you have completed and submitted the application form, Council will assess the application

and either enter into a written agreement, issue an approval, lease or licence to the group that holds the public liability insurance. The agreement, approval, lease or licence will document:

- details of the initiative as discussed with neighbouring residents and property owners
- any specific conditions relating to:
- the provision of public liability insurance cover related to the edible streetscape and
- safety requirements during establishment and operation of the farmers market
- the understanding of the nominated primary contact person to report to Council in the event that a new primary contact person is nominated or substantial changes to the initiative are proposed.

The process for submitting your application is either by email to Council on [council@lismore.nsw.gov.au](mailto:council@lismore.nsw.gov.au) or by visiting the Council office at 43 Oliver Avenue, Goonellabah.

A register listing the locations of farmers markets for which agreements, approvals, leases or licences have been executed will be available on the Council website.

## 8 Food Safety

All food businesses (which includes all stallholders at farmers markets who are selling food products) are required by law to register their business activities onto the NSW Food Authority's Notification and Food Safety Information System (NAFSIS). This can be done at no charge online at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au). A helpline has been established for further assistance on 1300 650 124. Food stalls are also required to register with Council and be listed on the Councils Commercial Premises Register and a fee may be applicable. Charities and community groups conducting fundraising activities are exempt from these requirements.

As there are now various obligations imposed on food businesses and food handlers Council recommends visiting the FSANZ website to download a copy of the legislation and other fact sheets on food handling information that is covered in this section of the Market Code. The Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 can be downloaded from:

<http://www.foodstandards.gov.au/foodstandardscode/index.cfm#FSCchapter3>

To access the food safety fact sheets visit the following link:

<http://www.foodstandards.gov.au/mediareleasespublications/factsheets/foodsafetyfactsheets/index.cfm>.

The NSW Food Act 2003 and Food Standards Code apply to any premises used for the preparation of food for sale. It is generally expected that persons preparing food at home be aware of the requirements to ensure that the premises generally comply with this legislation.

Food business operators must ensure that all foods are stored in such a way that it is protected from likely contamination and that the environmental conditions will not adversely affect the safety of the food.

All goods should be stored at least 750mm off the ground.

Packaging material used must be suitable for food packaging and unlikely to cause food contamination.

**Note:** the use of single use plastics to be phased out at markets and events held at Council venues or on Council land and at events sponsored by Council, by July 2020.

Any product sold in packaged form – including eggs - (jar, bottle, packet) is to be clearly labelled, with at least the address of the place where the food was made and a “best before” date. You will also need to list the ingredients so that people with allergies can see what is in the product.

All stalls which sell “potentially hazardous” foods as defined by the NSW Food Authority are required to produce answers to the following enquiries by Council if asked:

Premises where food preparation occurs

- Full address

All persons involved in handling/preparation/serving of ingredients or “potentially hazardous” food for sale at a market stall.

- Are these people aware of food hygiene and safety? Detail any courses undertaken and provided copies of any supporting documents.
- Course/s intended to be undertaken in the near future related to food hygiene and safety.

All steps involved preparing final product - from purchase of ingredients to serving and identification of sources of contamination.

- What goods and ingredients are usually purchased?
- Where do you normally purchase your good or ingredients?
- How do you transport and store ingredients and foodstuffs safely?
- Food preparation steps involving handling of foods and ingredients
- Identify all products sold

Practices employed to minimize risks associated with above procedures.

- Exposure time/temperature controls
- Cleaning and sanitizing practices for premises, utensils, machinery, etc
- Is a safe potable water supply available?
- Essential hand washing requirements - How are these met?
- Vermin control
- Storage containers
- Preventing direct contact with food likely to be immediately consumed

Are appropriate labels attached, as required for all prepacked food products?

- It is necessary that you consider the medical consequences of failing to notify the customer that a particular ingredient is contained in your product. Certain ingredients, including colouring or preservative agents can seriously affect the health of people with allergies and illnesses (such as asthma).

**(Note:** The Food Safety Plan must identify likely sources of food contamination, e.g. microbial and foreign matter and the methods used to minimize contamination)

Generally, animals may be sold as long as appropriate distances are maintained between food stalls and animals for sale. Birds and poultry may be sold by appropriately licenced bird traders/sellers, in keeping with the Animal Welfare Code of Practice – Animals in Pet Shops (NSW Department of Primary Industries) and all other animal sellers should contact Council for relevant information regarding bio-security, food contamination and health and hygiene issues.

If you are selling butchers’ meat, smallgoods, uncooked fermented manufactured meats, raw poultry, or wholesaling/processing meat, poultry, dairy products, seafood or plant products, you will probably need to be licensed by the NSW Food Authority. Contact the Authority before you start selling to find out the requirements.



## ATTACHMENT 1

### Farmers market self-assessment checklist

If you can answer YES to all these questions please call Lismore City Council to discuss your idea further.

	YES
<p><b>Have you identified a potential site?</b></p> <p>It would be good if you could find a site that is close to a town centre or easily accessible for vehicular traffic with toilet facilities.</p>	
<p><b>Are you willing to consider alternative sites?</b></p> <p>Council may consider that the site you want to use is not suitable.</p>	
<p><b>Are you willing to talk with the people who live in the area where you want to run the farmers market?</b></p> <p>The people and businesses in the local area will need to be generally supportive of the project.</p>	
<p><b>Have you identified a person who would be the primary contact for this project?</b></p> <p>Council needs to have one person to talk with primarily about the project – otherwise it may be hard to keep track of who said what to whom - when.</p>	
<p><b>Do you have an organised group of people to work on this project with?</b></p> <p>These projects take quite a bit of “person power” so a few people to help is always good.</p>	
<p><b>Does your group have public liability insurance for \$10,000,000 or can you get another group who has insurance to auspice you?</b></p> <p>A Tidy Towns, Landcare or some other group might be able to help you out.</p>	
<p><b>Are you willing to enter into a formal agreement with Council?</b></p> <p>Council will have to place some restrictions on what you can and can't do and what action Council will take if you do the wrong thing.</p>	
<p><b>Are you willing to report your progress to Council annually?</b></p> <p>We would like to know what successes you have and what challenges you face.</p>	
<p><b>Do you have an understanding of risk management including food safety?</b></p> <p>The project will be your responsibility and your own safety and the safety of those around you are very important.</p>	
<p><b>Do you have an idea of what it is you would like to see sold at the market?</b></p> <p>Having a broad range of producers at the farmers market encourages repeat consumer visits and word-of-mouth promotion.</p>	
<p><b>Are you willing to consider additional stall holders from outside the local area for products that are not available locally?</b></p> <p>With increased access of stall holders, consumers are likely to have access to a broader range of product.</p>	
<p><b>Will you promote that the farmers market sells organically produced food?</b></p> <p>This will increase the image of the region as a clean, green area and contributes to regional tourism marketing.</p>	
<p><b>Will you work toward reducing the use of single use plastics including plastic bags, takeaway food and beverage containers, cutlery, straws, balloons and decorations and single use water bottles?</b></p> <p>This will help our environment by diverting waste from landfill and increasing the image of Lismore as the recycling capital of Australia.</p>	

## ATTACHMENT 2

### Sale of goods at farmers market – prohibited items

The following items are prohibited for sale at farmers markets

1. Plants that are listed as environmental weeds, noxious plants.
2. Products or services harmful to minors, obscene or otherwise objectionable.
3. Weapons and related accessories.
4. Tobacco products, drugs, drug paraphernalia and medical devices.
5. Products that violate any Australian export or import law or regulation, including items subject to the terms of any Australian embargoes.
6. Products that infringe the rights of a third party, including copyrights, trademarks, publicity or privacy rights, such as unauthorized copies or bootlegs of software, music, video games, movies, photos or other media.
7. Counterfeit or stolen items, including “replicas”, “knockoffs” or “fake” versions of branded products, inauthentic collectibles, autographs, memorabilia or signatures.
8. Products designed or intended for use in the commission of any illegal activity.
9. Items that promote, glorify, or are directly associated with hate groups or individuals.
10. Live animals or products made from or including any parts of an animal protected by law or regulation.
11. Products that have been recalled by the Australian Department of Consumer & Employment Protection (DOCEP), or any other manufacturer.
12. Products used for hacking, intercepting, jamming, descrambling or otherwise obtaining unauthorised access to wire, electronics or other types of communications.
13. Bodies, body parts or bodily fluids such as cadavers, organs, urine, sperm, eggs, blood, breast milk.
14. Fireworks, explosives or any hazardous or restricted material or substance.
15. Authentic or counterfeit identification documents, (e.g., fake ID's or passports) or law enforcement insignia.
16. Stocks and securities.
17. Gambling-related devices or products such as lottery tickets, sweepstakes, pyramid schemes, grab bags, raffles, slot machines, etc.
18. Event tickets or scalping.
19. Non-packaged food and other food or beverages items offered in violation of federal, state or local regulations.
20. Used goods not appropriate for resale for safety, health or other reasons including any clothing items that have not been appropriately cleaned (e.g., used underwear) & bedding (pillows, mattresses).
21. “Adult-oriented” products or content, as determined by the licensee in its sole discretion.