



Council Policy **COMMERCIAL USE OF COMMUNITY LAND**

| | |
|----------------------------------|------------------------------------|
| Corporate Plan Reference: | Long term planning for Noosa Shire |
| Endorsed by Council: | 17 June 2021 |
| Policy Author: | Property Manager |

POLICY BACKGROUND

The Noosa Shire is strongly focused on a sustainable future and ensuring that our natural environment is valued, conserved and enhanced. Community land is a precious part of the environment which is in high demand from the commercial sector. This demand needs to be carefully managed in accordance with the needs of the community and the environment so that community use is not unreasonably diminished and the environment is preserved. The Commercial Use of Community Land Policy sets out the parameters for Council's approach for permit applications for the commercial use of community land.

COUNCIL POLICY

Policy Scope:

This Policy:

- Applies to a person or business undertaking commercial activity on Council controlled community land; and
- Includes freehold land and trustee land under the control of Council such as parks reserves, roadways (not state controlled roads), pathways, footpaths, foreshores and bathing reserves

The holding of the land determines the legal framework that applies. The *Land Act 1994* applies to reserves under the control of Council (state land). Local laws generally apply to Council freehold land and roadways, foreshores and bathing reserves.

The Policy does not apply to:

- Footpath trading and dining, markets, leased sports grounds, street performers, commercial leases and events; and
- Non-commercial recreation use by the community, not-for profit organisations, and school curriculum activities.

Guiding Principles

- The community's use and need for the land takes precedence over commercial operators' need;
- Council's consideration of new commercial use activities will be primarily driven by direct community evidence and demand for that activity;

- The commercial use activity must enhance the visitor and local experience of Noosa Shire;
- The commercial use must not adversely impact the community asset or the environment; and
- A permit holder may only be granted two permits from the range available to reduce the likelihood of a monopolistic permit environment while providing the opportunity for added local employment.

Permit Categories

Commercial High Use Permit

- Five year permit term;
- Subject to a tender process every five years to allow Council to assess all applications simultaneously to consider the overall impact on the community and commercial businesses;
- Relate to activities on beaches and waterways, popular or high use parks, some roadways, pathways, footpaths and trails where locations have a higher intensity of use and potentially more significant impact on the community;
- Applications received outside of the tender process will not be supported unless Council identifies overriding community need for the activity and agrees to amend this policy; and
- Supported permit activities and locations are listed below.

Table 1 – Permitted Commercial High Use Activities and Locations

| Activity | Location | Further details |
|-----------------------------------|------------------|---|
| Learn to Surf Lessons | Main Beach West | Access 14 extending 50 metres west |
| Lean to Surf Lessons | Main Beach West | Access 11 extending 50 metres east |
| Beach Hire | Main Beach | Between Surf Club and Netanya buildings |
| Beach Hire | Main Beach West | Near middle groyne |
| Snacks and Drinks Refreshment Van | First Point | Designated car park |
| Snacks and Drinks Refreshment Van | Noosa Spit | Designated car park |
| Beach Massage | Noosa Main Beach | Near 11 Hastings Street |
| Surf Dancing Lessons | Main Beach West | Between rock groynes |
| Kite Surfing Lessons | Noosa Spit | Sand spit and various locations |
| Mobile Beach Refreshments | Main Beach | “Hey Bill” Iconic Lifetime permit |

Commercial Low Use permit

- One year permit;
- Generally operates 3 days per week or less;
- Low community impact;
- May not operate in a Commercial High Use Permit location; and
- Applications may be considered at any time.

ROLES AND RESPONSIBILITIES

Council:

- Will decide the type of activities, locations and number of Commercial High Use Permits;
- Is responsible for assessing Commercial High Use Permit applications;
- Will review the previous permit holder’s term and including but not limited to number of complaints, feedback received from the community, impact on the environment and overall performance of the permit holder; and
- Reserves the right at its absolute discretion not to offer any permit having given sufficient consideration to the impact of the application on the community amenity and commercial businesses.

RELEVANT LEGISLATION

Land Act 1994

Local Government Act 2009

Local Law (1) Administration

Local Law (4) Local Government Controlled Areas, Facilities, Infrastructure and Roads

Local Law (6) Bathing Reserves

Version control:

| Version | Reason/ Trigger | Change (Y/N) | Endorsed/ Reviewed by | Date |
|---------|-----------------|--------------|-----------------------|------------|
| 1.0 | New Policy | N | Council | 01/05/2014 |
| 1.1 | Updated Policy | Y | Council | 17/06/2021 |