

**FILE NO: PSC2005-2640**

**TITLE: OUTDOOR TRADING POLICY**

**OWNER: ASSETS SECTION MANAGER**

## **1. PURPOSE:**

- 1.1 Facilitate the creation of a vibrant cosmopolitan trade atmosphere in appropriate areas of Port Stephens.
- 1.2 Provide an opportunity for local charitable and community organisations to operate casual street stalls within the public footway.
- 1.3 Provide commercial retailers with an opportunity to use the adjoining public footway to enhance, activate and promote their business within the pedestrian area.
- 1.4 Ensure that equitable and safe access is maintained on footways at all times for pedestrians including the vision impaired, users of wheelchairs and other mobility aids.
- 1.5 Regulate the use of the public footway area to avoid nuisance, inconvenience or reduction of safety to the public.

## **2. CONTEXT/BACKGROUND:**

- 2.1 Council has authority to regulate the use of footways within Council road reserves. This policy has been created to provide a safe, consistent and equitable approval process for the appropriate use of public footways.
- 2.2 The policy must be read in conjunction with:
  - Temporary Structures Application Form – Terms and Conditions.
  - Casual Street Stall Application Form – Terms and Conditions.
  - Footway Dining Application Form - Terms and Conditions.

## **3. SCOPE:**

- 3.1 The policy applies to all applications for outdoor trading on footways within the Port Stephens local government area. Outdoor trading includes businesses operating an outdoor dining area on the footway or where goods and services are offered for sale. These activities require an approval in accordance with Section 125 of the Roads Act 1993.
- 3.1 This policy applies to activities such as outdoor dining, casual street stalls, A-frame signs (sandwich boards), flag structures, clothing racks, planter boxes and other temporary structures.
- 3.2 This policy does not apply to mobile food vending vehicles, permanent structures (including any which are not removed at the end of the days trading), or any other activities undertaken in the road reserve or other public spaces

such as parks and reserves. These activities are covered by applying to Council under the Commercial Operators Policy.

- 3.3 The use of part of the footway will only be considered for the use of charity organisations or in association with an established commercial business where the owner/proprietor/manager of that business wishes to apply for use of the adjoining footway.
- 3.4 Council does not charge any fees for applications or annual approvals for activities covered by this policy. An application is still required to ensure appropriate insurances are held and space is managed safely and effectively.

## 4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Footway	That part of a road as is set aside or formed as a path or way for pedestrian traffic (whether or not it may also be used by bicycle traffic).
Outdoor Dining Area	A restaurant that is the subject of an approval under Section 125 of the Roads Act 1993.
Road Reserve	The entire right-of-way devoted to public travel including footways, shoulders, verges and carriageways – the whole width between adjacent property boundaries.
Casual Street Stalls	Used by charity organisations and locals in the community for the selling of goods and services in a public place to promote and raise funds for the charity.
Commercial activity	To conduct any aspect of a business or service in order to provide goods or services to any person for profit or cost recovery on Council owned and managed land.
Charity Organisation	As defined by the Charities Act 2013 ie. an organisation which is not for profit, has charitable purposes for public benefit and not be an individual, a political party or government entity.
A-frame sign	An upright, rigid self-supporting frame with two flat panels connected at the top in the form of a triangle or an inverted V.
Flag Structure	A pole, staff or similar article with a piece of cloth or bunting displaying a design, symbolic colours or patterns.
Clothing rack	A framework for holding and displaying clothing or other items.
Planter boxes	A container used for displaying live plants or flowers.

Permanent Structure	Any article not intended to be moved or one which would be difficult to move without mechanical or other assistance.
Temporary Structure	Any article which can be moved easily and is packed away at the end of each days trade.
Outdoor Trading Area	A part of the footway used on a temporary basis for commercial activities which may include the display of articles, signs, goods, food or beverages for consumption or display in association with an adjacent approved business.

## 5. STATEMENT:

- 5.1 Port Stephens Council seeks to create a vibrant cosmopolitan outdoor trading area by providing charity organisations and commercial retailers with an opportunity to integrate commercial activities into public footways, increasing tourism potential and improving business viability.

## 6. RESPONSIBILITIES:

- 6.1 Council has authority to grant approval and regulate the use of the footway in accordance with the Roads Act 1993 and the Local Government Act 1993. The Civil Assets team is responsible for the development, implementation, monitoring and reviewing of this policy.

## 7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993 (NSW).
- 7.2 Roads Act 1993 (NSW).
- 7.3 Commonwealth Disability Discrimination Act 1992 (Cth).
- 7.4 Companion Animals Amendment (Outdoor Dining Areas) Act 2010 (NSW).
- 7.5 Disability Inclusion Act 2014 (NSW).
- 7.6 Smoke Free Environment Act 2000 (NSW).
- 7.7 Companion Animals Act 1998 (NSW).
- 7.8 Liquor Act 2007 (NSW).
- 7.9 Food Act 2003 (NSW).
- 7.10 Work Health and Safety Act and Regulations 2011 (NSW).
- 7.11 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW).
- 7.12 Environmental Planning and Assessment Act 1979 (NSW).
- 7.13 Port Stephens Council Development Control Plan 2014.
- 7.14 Port Stephens Council Information & Direction Signs in Road Reserves Policy 2021.
- 7.15 Port Stephens Council Temporary Structures Application Form.
- 7.16 Port Stephens Council Casual Street Stalls Application Form.

## 7.17 Port Stephens Council Footway Dining Application Form.

### CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a> .			
<b>EDRMS container No.</b>	PSC2005-2640	<b>EDRMS record No.</b>	21/322599
<b>Audience</b>	Community, Assets Section, Civil Assets, Staff and General Manager		
<b>Process owner</b>	Assets Section Manager		
<b>Author</b>	Civil Assets Planning Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	October 2024
<b>Adoption date</b>	25/11/2014		

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	25/11/2014	Civil Assets Manager	Adopted by Council	321
2	28/08/2018	Civil Assets Planning Manager	Reviewed and updated in new Policy template. Removal of Civil in the Policy Owner 1.1 Reworded to improve purpose. 1.3 Reworded and additional points added as 1.4 and 1.5. 4.1 Additional information in Definition. 6.1 Changed in policy due to NOM (Min No. 024) 14 February 2017. Adopted By Council.	269

Version	Date	Author	Details	Minute No.
3	26 October 2021	Civil Assets Engineer	<p>Reviewed and updated in the new Policy template.</p> <p>1.1-1.5 Reordered and reworded to better reflect purpose.</p> <p>2.1 Reworded.</p> <p>2.2 Updated document names.</p> <p>2.3 Removed.</p> <p>3.1 Reworded and additional point added 3.2, 3.3, 3.4 and 3.5.</p> <p>4.1 Reworded and additional definitions added.</p> <p>5.1 Reworded and 5.2 and 5.3 removed – points already covered within Policy.</p> <p>6.1 Reworded and 6.2, 6.3 and 6.4 removed – points already covered within Policy.</p> <p>7.5, 7.7, 7.9, 7.12, 7.14 Added related documents.</p> <p>7.15 – 7.17 Updated document names.</p>	286